

Draft date: 11/10/23

*2023 Fall National Meeting  
Orlando, Florida*

### PROPERTY AND CAUSALTY INSURANCE (C) COMMITTEE

Sunday, December 3, 2023

10:45 – 12:00 p.m.

Bonnet Creek IV-XII & Corridor I - Level 1 - Bonnet Creek

### ROLL CALL

Alan McClain, Chair	Arkansas	James J. Donelon	Louisiana
Grace Arnold, Co-Vice Chair	Minnesota	Mike Chaney	Mississippi
Larry D. Deiter, Co-Vice Chair	South Dakota	David Bettencourt	New Hampshire
Mark Fowler	Alabama	Alice Kane	New Mexico
Ricardo Lara	California	Glen Mulready	Oklahoma
Andrew N. Mais	Connecticut	Kevin Gaffney	Vermont
Gordon I. Ito	Hawaii	Allan L. McVey	West Virginia
Amy L. Beard	Indiana		

NAIC Support Staff: Aaron Brandenburg

### AGENDA

1. Consider Adoption of its 2023 Summer National Meeting Minutes Attachment One  
—*Commissioner Alan McClain (AR)*
  
2. Consider Adoption of its Task Force and Working Group Reports and Minutes Attachment Two
  - A. Casualty Actuarial and Statistical (C) Task Force—*Commissioner David Bettencourt (NH)*
  - B. Surplus Lines (C) Task Force—*Commissioner James J. Donelon (LA)*
  - C. Title Insurance (C) Task Force—*Director Eric Dunning (NE)*
  - D. Workers' Compensation (C) Task Force—*Commissioner Alan McClain (AR)*
  - E. Cannabis Insurance (C) Working Group—*Commissioner Ricardo Lara (CA)*
  - F. Catastrophe Insurance (C) Working Group—*Director Chlora Lindley-Myers (MO)*
  - G. Terrorism Insurance Implementation (C) Working Group —*Martha Lees (NY)*
  - H. Transparency and Readability of Consumer Information (C) Working Group—*Joy Hatchette (MD)*



3. Consider Adoption of its 2024 Charges—*Commissioner Alan McClain (AR)* Attachment Three
4. Hear Presentation Related to the Use of Telematics in Auto Insurance—*Tony Cotto (NAMIC), Dave Snyder (APCIA) and Ryan McMahon (Cambridge Mobile Telematics)* Attachment Four
5. Hear Presentation related to Third-party Litigation Funding—*Bob Sampson, Ginamarie Alvino, John Bauer (RiverStone)* Attachment Five
6. Discuss Status of State Regulator Property Insurance Data Call—*Alan McClain*
7. Adjournment

## Draft Pending Adoption

Draft: 8/28/23

Property and Casualty Insurance (C) Committee  
Seattle, Washington  
August 15, 2023

The Property and Casualty Insurance (C) Committee met in Seattle, WA, Aug. 15, 2023. The following Committee members participated: Alan McClain, Chair (AR); Grace Arnold, Co-Vice Chair (MN); Larry D. Deiter, Co-Vice Chair (SD); Mark Fowler (AL); Ricardo Lara (CA); Andrew N. Mais and George Bradner (CT); Gordon I. Ito represented by Kathleen Nakasone (HI); Amy L. Beard represented by Patrick O'Connor (IN); James J. Donelon (LA); Mike Chaney and Andy Case (MS); D.J. Bettencourt (NH); Glen Mulready (OK); Kevin Gaffney (VT); and Allan L. McVey represented by Erin Hunter (WV). Also participating was: Peg Brown (CO).

### 1. Adopted its Spring National Meeting Minutes

Commissioner Arnold made a motion, seconded by Director Deiter, to adopt the Committee's March 24 minutes (see *NAIC Proceedings – Spring 2023, Property and Casualty Insurance (C) Committee*). The motion passed unanimously.

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

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

### 3. Adopted the Regulatory Guide to Understanding the Market for Cannabis Insurance: 2023 Update

Commissioner Lara thanked Brown for her hard work in leading updates to the *Regulatory Guide to Understanding the Market for Cannabis Insurance*. Brown said the Cannabis Insurance (C) Working Group published the original white paper in 2019. At that time, the cannabis industry was in its infancy, and many insurance gaps for cannabis-related businesses existed. Since 2019, the cannabis industry has become more sophisticated. It has also continued to rapidly expand, driving new product development, infrastructure changes, and the need for businesses to provide ancillary services. The state of cannabis regulation, particularly at the state and local levels, has also evolved significantly since the last white paper. For these reasons, the original white paper needed to be updated to be of benefit to state insurance regulators.

Brown said the Working Group was officially tasked with providing an updated white paper in 2022. Since then, it has been exploring emerging issues, primarily in the commercial cannabis space, through presentations, panel discussions, and hearings held during open meetings. Information gained through these was leveraged to inform the content of the updated white paper.

Brown explained the Working Group designated a drafting group to develop the white paper after it reviewed and approved an outline during an open meeting. The drafting group held bi-weekly drafting sessions until completion. Drafting group member states included California, Colorado, Illinois, Oregon, Vermont, and Washington. The Insurance Services Office (ISO) and American Association of Insurance Services (AAIS) contributed educational materials and revisions to the sections of the white paper that discuss their products and services. The Working

## Draft Pending Adoption

Group was presented with periodic updates on the working drafts during open meetings so it could provide feedback.

Brown said the Working Group has not encountered any controversy related to the updated white paper. The white paper avoids advocacy-oriented discussion and focuses on issues affecting affordability and availability of insurance for cannabis-related risks in states that have legalized its use. The white paper finds that although capacity has improved since the first white paper's publishing, most of the commercial insurance for cannabis-related businesses is still found in the nonadmitted market. This affects smaller industry players most as the nonadmitted market does not offer the "off-the-shelf" insurance solutions typically available in the admitted market. Insurance gaps are most prevalent in the emerging areas of the cannabis industry, such as ancillary services, cannabis-infused products, and social consumption lounges. Among the potential structures being explored to facilitate cannabis-related business coverage are: the use of state-based commercial insurance programs, risk retention groups (RRGs), captives, and joint underwriting associations (JUAs).

Brown said the Working Group adopted the 2023 update to the *Regulatory Guide to Understanding the Market for Cannabis Insurance* white paper during an open meeting on July 18. The adoption followed an extensive public comment period.

Commissioner Lara made a motion, seconded by Commissioner Arnold, to adopt the *Regulatory Guide to Understanding the Market for Cannabis Insurance: 2023 Update* (Attachment Three). The motion passed unanimously.

#### 4. Heard a Presentation on Telematics

Micheal DeLong (Consumer Federation of America—CFA) said consumer protections related to telematics programs are needed at the state level to protect consumers and make sure telematics programs improve pricing fairness and incentivize safe driving. He noted that telematics is an insurance program that captures consumers' driving data from cars, via devices, built-in technology, and mobile phones. Telematics programs use that data to assess consumers' driving behavior and driving patterns, as well as to calculate insurance premiums. He said savings and surcharges vary by company, and some companies say they do not surcharge people with bad driving behavior.

DeLong said safe drivers should, in theory, earn lower premiums, but there are concerns about the use of telematics related to transparency, data uses, consumer privacy, actuarial soundness, and fairness. He said telematics programs use hard braking, the time someone is driving, the distance or miles traveled, how quickly someone accelerates, their speed, cornering, and location. He said one company collects phone data even when a person is not driving. He said most drivers still do not have telematics-based auto insurance despite a lot of promotion and marketing from insurers. Consumers are wary of telematics for several reasons: concerns about privacy, worries about control over their information, and vulnerability to data hacks and breaches.

DeLong said the CFA believes that the NAIC should develop and provide guidance on telematics for departments of insurance (DOIs) and lawmakers. He said there are few state laws, regulations, or bulletins addressing telematics. He said better oversight, whether in the form of a model law or bulletin, or other guidance for state insurance regulators, would help protect consumers from harmful practices and their resulting consequences.

DeLong said there are several key objectives of telematics consumer protections: transparency clarity concerning all variables used in telematics programs along with consumer-facing explanations of the weight given to each variable; actuarial support for each variable included in the telematics algorithm and further demonstration that variables used do not result in unfair discrimination on a protected class basis; strict limits on the data collected and used by auto insurers; strong privacy standards; and testing for unfair and unintentional bias.

## Draft Pending Adoption

DeLong said he believes insurers should provide their customers with a list of all variables used to calculate their premiums, in a format approved by the DOI. The list should be presented in an easily understandable manner for consumers and include an explanation of what each variable is assessing. The list should also disclose the relative weight given to each variable in the telematics algorithm, in a way that makes it clear how much impact each variable will have on consumer premiums. Insurance companies should disclose all the data they are collecting, but consumers need more detail, more explanations about how they are being evaluated, and why each item is needed to evaluate their insurance risk.

DeLong said companies should demonstrate to state insurance regulators why each of the factors is relevant and should be collected. There should be actuarial support for each variable. Regulators should only allow data that is both demonstrably related to the risk of loss and not unfairly discriminatory. He said insurers should provide actuarial justification and causative explanation for each data point used. He said insurers must also demonstrate that each component meets the standards for fair and unfair discrimination as understood in a civil rights context so a component cannot disproportionately harm consumers of a certain race or ethnicity or related to another protected class status. He said justification should be required whether an insurance company uses its own program or a third-party telematics program.

DeLong said the use of telematics should encourage driver safety and reduce insurance costs, and telematics should not be allowed to become a platform from which consumers are turned into products. He said there should be strict limits on the data collected and used by insurers. Insurers, and any third party managing a telematics system on an insurer's behalf, must only be allowed to collect data necessary to calculate a consumer's premium in accordance with the approved telematics program. He also noted that policyholders should have the right to access, review, contest, and use any data collected as part of a telematics program. He said he believes that, beyond its use for insurance rating, the only other appropriate uses of the data are driving safety communications, crash response, and claims handling. With respect to the use of data for handling claims, a condition for allowing insurers to use that data must be that the data is equally available to consumers for their use in the claims process.

DeLong said there should also be strong privacy standards for consumer data, and these standards should synchronize with the NAIC privacy model. Rules should be clear that data collected shall not be sold, loaned, rented, shared, monetized, or used in any way beyond the approved auto insurance purposes. Consumers should have access to all data collected and information about how and where the data is stored, and how long data will be maintained by the company. Insurers should meet standards for protections against hackers and should report any data breaches and other malicious activities to the appropriate authorities. He also noted that policyholders should have the right to opt out of a telematics program and to be rated without usage-based data in a manner that is not unfairly discriminatory.

DeLong said ensuring equity in the use of telematics requires testing for unfair discrimination and bias. He said charging higher premiums to consumers who drive at night or to those with varying time of day driving patterns could harm lower-income consumers who often work night shifts or jobs with inconsistent hours, with no control over their schedules. He said telematics programs should be subject to algorithmic bias testing. The focus should be on assessing the outcomes of the telematics algorithm, such as how much a customer is charged as a result of the telematics system and whether any data elements of the program are driving protected class discrimination.

Commissioner Mulready asked if there is an analysis of how states treat the usage of telematics. DeLong said most states do not have specific laws or regulations concerning telematics, although New York has some guidelines.

### 5. Heard Presentation on Underinsurance Issues

## Draft Pending Adoption

Ken Klein (California Western School of Law) said he has been conducting research into underinsurance. He said most homeowners in the U.S. believe they are fully insured, but they are significantly underinsured. He worked with the California DOI to obtain two years of fire claims. He said the data shows that after a catastrophe, about 95% of homeowners have less coverage than what it would take to rebuild. He said most homeowners are at least 57% underinsured. He said the explanation is not demand surge because many of the claims were not total losses, and they experienced 24% demand surge compared to underinsurance of 57%. He also said homeowners are not choosing to underinsure because many homeowners bought Extended Replacement Cost where they chose 100% of the estimate of reconstruction costs. He said these homeowners still have inadequate insurance, including the extended replacement coverage (ERC), at least 60% of the time. Klein said in the non-catastrophe losses, homeowners were underinsured 77% of the time by an average of 35.5%.

Klein said insurers use algorithms at point-of-sale (POS) to estimate reconstruction cost. He said the estimates are presented to customers as the insurer's estimated cost of reconstruction based on the information the insurer has about the house. He said the customer is given the right to select either more or less Coverage A than the estimate, but the customer typically is not given any information about error rates in the algorithm-generated estimates or any other reasons to doubt the accuracy of the estimates. Klein said the error rate of the algorithm-generated estimates apparently is significant and typically is significantly low. He noted the insurer's internal data makes error rates in algorithm-generated reconstruction estimates easily calculatable and knowable to insurers, but insurers cannot unilaterally adjust their pricing to correct for the error rates without causing competitive issues through high prices.

Klein said that although he reviewed 8,000 large loss claims, the data is not conclusive because data does not exist to compare claims that insurers internally identified as total losses to the amount of the POS estimated reconstruction cost for each claim.

Klein suggested that state insurance regulators should require insurers to report the following for each total loss claim: the insurer's POS estimated reconstruction cost and the estimation software used to determine that estimate; any updated estimated reconstruction cost and the software used for following years; the dwelling reconstruction coverages and the coverage limit of Coverage A; the incurred loss; and whether the loss occurred in a catastrophe.

Klein also said state insurance regulators should adopt the approach of California and Colorado in terms of disclosure rules by requiring insurers to: 1) make annual calculations of the error rates of their POS reconstruction cost algorithm; and 2) disclose to insureds their error rate within the algorithm so the insured can decide which coverage amount to choose. He said this would reduce the frequency of unintended underinsurance. Klein said this research would be published in January 2024.

### 6. Discussed Insurance Issues Related to Public Schools

Commissioner Mulready said he is hoping to learn from other states about how they are dealing with rising insurance rates for public schools. He said Oklahoma had two self-insurance pools for public schools, but one recently went out of business. He said 61 reinsurers participate in the pool with \$25 billion in property. The pool has seen a 262% loss ratio over the past six years. He said the program has a pilot program to conduct water and temperature monitoring in an attempt to keep claims down. Some schools are changing deductibles to improve rates. He noted that an Oklahoma company runs one of the three pools in the state of Texas. He said the Oklahoma legislature is looking into these insurance issues.

Commissioner McClain said Arkansas is seeing similar issues with rates. He said a recent tornado caused \$100 million in losses to schools. He said Arkansas has 24 reinsurers participating in its pool. Director Wing-Heier said two pools are merging in Alaska. She said members of the pool are responsible for losses. Commissioner

Mulready said that is the case in Oklahoma as well and that when the prior pool went under, there were assessments to those school districts to pay for losses. Commissioner McClain said the Committee will look to have future discussions on this issue.

Peter Kochenburger (University of Connecticut School of Law) said this issue is national in scope. He said access to cyber insurance is difficult due to school vulnerabilities. He also said he has conducted work on the cost of insuring armed security.

#### 7. Announced the Property Insurance Data Call Project

Commissioner McClain said state insurance regulators understand that increasing frequency and severity of weather events, rising reinsurance costs, and inflationary pressures are making property insurance availability and affordability more challenging for a growing number of regions across the country. These dynamics can vary significantly within a relatively small geographic area, so while a state's property insurance market may be generally healthy overall, there can be localized protection gaps that challenge certain communities.

Commissioner McClain said state DOIs have robust financial data to understand the impact of these forces on insurers' solvency and investments and can assess the strength and resilience of the industry, but many states lack granular data on how this translates to availability and affordability of coverage for consumers in some areas. He noted NAIC Members adopted a 2023 charge for the Property and Casualty Insurance (C) Committee to: "Assist state insurance regulators in better assessing their markets and insurer underwriting practices by developing property market data intelligence so regulators can better understand how markets are performing in their states, and identify potential new coverage gaps, including changes in deductibles and coverage types, and affordability and availability issues."

Commissioner McClain said interested regulators have begun preliminary scoping work to identify regulatory issues and considerations related to affordability and availability for which data is lacking, and then intend to refine a data template to respond to those specific needs of state insurance regulators. He said that although there is federal interest in this issue and proposals to gather data directly from insurers, NAIC Members believe the states have both the expertise and necessary regulatory authority to gather, analyze, and use data about their unique market conditions and meet the needs of policyholders, so they are best positioned to lead this work.

Commissioner McClain said that as the data template is developed over the coming weeks, state insurance regulators will work with interested parties in ensuring regulators receive accurate and meaningful data to meet regulatory needs.

Birny Birnbaum (Center for Economic Justice—CEJ) said in 1991, the Texas DOI tried to obtain data for a redlining study. He said they could not get the data from statistical agents, so the DOI developed a new data collection program for effective market monitoring through a single statistical agent. The new statistical plan was based on transactional-level reporting. He said this structure would work for state insurance regulators in conducting analyses to determine which insurers are writing in what areas and at what price. He said workers' compensation has a similar type of detailed transaction-level reporting. He said state insurance regulators should not try to become data collectors, but they should reform the statistical agent reporting system.

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

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2023 Fall National Meeting

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### CASUALTY ACTUARIAL AND STATISTICAL (C) TASK FORCE

Friday, December 1, 2023

10:00 – 11:30 a.m.

#### Meeting Summary Report

The Casualty Actuarial and Statistical (C) Task Force met Dec. 1, 2023. During this meeting, the Task Force:

1. Adopted its Summer National Meeting minutes.
2. Adopted its Oct. 24, Oct. 10, Sept. 5, and Aug. 30 minutes, which included the following action:
  - A. Adopted the *Auto Insurance Database Average Premium Supplement* and the *2021 Dwelling, Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner's Insurance Report* (Homeowners Report).
  - B. Adopted its 2024 proposed charges.
  - C. Adopted a blanks proposal to require insurers to report 10 years of data for all lines of business in Schedule P.
3. Adopted the report of the Actuarial Opinion (C) Working Group, including its Sept. 27 and Aug. 23 minutes. During these meetings, the Working Group adopted the *Regulatory Guidance on Property and Casualty Statutory Statements of Actuarial Opinion, Actuarial Opinion Summaries, and Actuarial Reports for the Year 2023* (2023 Regulatory Guidance).
4. Adopted the report of the Statistical Data (C) Working Group report, including its Oct. 30 and Sept. 29 minutes. During these meetings, the Working Group adopted the 2021 Homeowners Report.
5. Received reports about other committee activities with potential impact on the Task Force.
6. Received an update from the NAIC Rate Model Review Team on its current activities. The Task Force received a first draft of a potential list of rate filing documentation needed before submitting a rate model review request to the NAIC.
7. Heard reports from professional actuarial associations.



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**SURPLUS LINES (C) TASK FORCE**

Friday, December 1, 2023

11:30 a.m. – 12:00 p.m.

**Meeting Summary Report**

The Surplus Lines (C) Task Force met Dec. 1, 2023. During this meeting, the Task Force:

1. Adopted its Summer National Meeting minutes.
2. Discussed an issue regarding the lack of uniformity with respect to the filing of service of process. The Task Force chair directed staff to form a drafting group to investigate further and report back at the 2024 Spring National Meeting.

*2023 Fall National Meeting*

*Orlando, Florida*

**TITLE INSURANCE (C) TASK FORCE**

Saturday, December 2, 2023

3:45 – 5:00 p.m.

**Meeting Summary Report**

The Title Insurance (C) Task Force met Dec. 2, 2023. During this meeting, the Task Force:

1. Adopted its Oct. 20 minutes, which included the following action:
  - A. Adopted its 2024 proposed charges.
2. Heard an update on the administration of the *Survey of State Insurance Laws Regarding Title Data and Title Matters*. Microsoft Forms will be used for the survey. An email was sent to the NAIC General Counsel distribution list on Nov. 27 asking them to coordinate the completion and final submission of the survey by Dec. 22.
3. Heard a presentation from AM Best on the updated AM Best's *Market Segment Outlook: U.S. Title Insurance*. AM Best revised its outlook for the sector to negative, owing to the significant decline in home sales and refinancing activity, as well as other factors. However, the sector posted solid operating results despite lower financial indicators in 2023. The sector is expected to continue facing macroeconomic headwinds into 2024 but remain profitable.
4. Heard a presentation from First American Corporation on the impact of monetary policy and housing cyclicity on the title industry. Title policy demand is driven by the housing and mortgage market cycles. The housing market remains in a cyclical downturn, pressuring premium growth.

*Virtual Meeting**(in lieu of meeting at the 2023 Fall National Meeting)***WORKERS' COMPENSATION (C) TASK FORCE**

Monday, November 6, 2023

11:00 a.m. – 12:00 p.m. ET / 10:00 – 11:00 a.m. CT / 9:00 – 10:00 a.m. MT / 8:00 – 9:00 a.m. PT

**Meeting Summary Report**

The Workers' Compensation (C) Task Force met Nov. 6, 2023. During this meeting, the Task Force:

1. Heard a presentation from Quintairos, Prieto, Wood & Boyer, P.A. (QPWB) on the unintended consequences of the legalization of cannabis on workers' compensation. Cannabis fits into workers' compensation in the following ways: 1) it can be the cause of an accident; 2) intoxication can be used as a defense to an accident; 3) intoxication of any kind can make a difference in an accident; 4) it can be used to treat a workers' compensation injury, and 5) it can be a long-term alternative for workers' compensation injuries. Additionally, the legalization of cannabis brings about changes for employers, changes in the investigation of a claim, and changes for insurers.

Draft: 11/21/23

Cannabis Insurance (C) Working Group  
E-Vote  
November 14, 2023

The Cannabis Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee conducted an e-vote that concluded Nov. 14, 2023. The following Working Group members participated: Ricardo Lara, Chair, represented by Katey Piciuccio (CA); Nathan Hall (AK); Angela King (DC); Christina Miller (DE); C.J. Metcalf (IL); Ryan Blakeney (MS); Randall Currier (NJ); Raven Collins and Jan Vitus (OR); Beth Vollucci (RI); and Michael Walker (WA).

1. Adopted its Nov. 14 Minutes

The Working Group conducted an e-vote to consider adoption of its July 18 minutes (Attachment One-A). The motion passed unanimously.

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

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*2023 Fall National Meeting*

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**JOINT MEETING OF THE CATASTROPHE INSURANCE (C) WORKING GROUP  
AND THE NAIC/FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) ADVISORY GROUP**

Friday, December 1, 2023

3:30 – 5:00 p.m.

**Meeting Summary Report**

The Catastrophe Insurance (C) Working Group met in joint session with the NAIC/FEMA (C) Advisory Group Dec. 1, 2023. During this meeting, the Working Group and Advisory Group:

1. Adopted its Summer National Meeting minutes.
2. Heard a federal update. The White House released the *Fifth National Climate Assessment* and announced more than \$6 billion to strengthen climate resilience nationwide.
3. Heard a presentation from FEMA on reauthorizing the National Flood Insurance Program (NFIP), underserved communities, and the penetration rate of NFIP policies. FEMA has submitted a document to Congress addressing 17 legislative proposals addressing reforms to the NFIP. There have been 27 short-term extensions since its expiration in September 2017. These reforms address the need to make NFIP policies more affordable and provide Americans with tools to manage their flood risk.
4. Heard a presentation on FEMA Individual Assistance (IA) documentation requirements from insurers. FEMA requires verification of any settlement made by an insurer before providing individual assistance to a consumer. In cases where an insurer denies a claim, FEMA needs confirmation of the denial from the insurer for someone to receive individual assistance.
5. Heard a presentation on mitigation being a shared priority. Insurance losses are high and are rising due to the frequency and severity of weather events, more people and property in vulnerable areas, inflation, and other contributing factors making it expensive to policyholders. Insurers and state insurance regulators are becoming increasingly engaged in communication and actions on mitigation.
6. Discussed state mitigation plans and risk mitigation programs some of the states have developed. States agree that educating the public about the importance of mitigation is crucial.
7. Heard an update on the 2023 Earthquake Summit held Nov. 13–14 in St. Louis, MO. The NAIC, the Central U.S. Earthquake Consortium (CUSEQ), and the Missouri Department of Insurance (DOI) sponsored the meeting.

Draft: 11/27/23

Transparency and Readability of Consumer Information (C) Working Group  
E-Vote  
November 20, 2023

The Transparency and Readability of Consumer Information (C) Working Group conducted an e-vote that concluded Nov. 20, 2023. The following Working Group members participated: Joy Hatchette, Chair (MD); Jimmy Gunn and Stephanie Tompkins (AL); Elizabeth Merrill (AK); Ken Allen (CA); George Bradner (CT); Angela King (DC); Julie Rachford (IL); Sara Hurtado (KS); Carrie Couch (MO); Janelle Middlestead (ND); Cuc Nguyen (OK); Tricia Goldsmith (OR); Rachel Chester (RI); Vickie Trice (TN); Marianne Baker (TX); and Mike Kemlock (WV).

1. Adopted its Nov. 20 Minutes

The Working Group conducted an e-vote to consider adoption of its Sept. 29 minutes (Attachment One-A). During this meeting, the Working Group took the following action: 1) heard a presentation from Washington on its recently adopted premium change transparency rule, which requires insurers to disclose to insureds the reasons for their premium change using consumer-friendly language; and 2) heard from Indiana on H.B. 1329, which makes a material change to an insured's personal automobile or homeowners policy to provide a written notice explaining the principal factors for the change. The motion passed unanimously.

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

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Draft: 10/10/23

Transparency and Readability of Consumer Information (C) Working Group  
Virtual Meeting  
September 29, 2023

The Transparency and Readability of Consumer Information (C) Working Group of the Property and Casualty Insurance (C) Committee met Sept. 29, 2023. The following Working Group members participated: Joy Hatchette, Chair (MD); Elizabeth Merrill (AK); Willard Smith (AL); Ken Allen (CA); Bobbie Baca, Keilani Fleming, and Debra Judy (CO); George Bradner (CT); Elijah Grigsby and Julie Rachford (IL); Sara Hurtado (KS); Ron Henderson (LA); Carrie Couch and Jeana Thomas (MO); Chris Aufenthie and Janelle Middlestead (ND); Tricia Goldsmith (OR); Rachel Chester (RI); Jennifer Ramcharan (TN); and Marianne Baker (TX). Also participating were: Christina Miller (DE); Michelle Brewer and Kevin Phelan (FL); Paula Shamburger (GA); Patrick O'Connor, Erin Robling, Kristina Shelley, and Claire Szpara (IN); Jackie Horigan (MA); Renee Campbell (MI); Michael Walker (WA); Darcy Paskey and Mark Prodoehl (WI); and Tana Howard and Lela Ladd (WY).

1. Heard a Presentation on the Washington Rule

Walker said consumer complaints to the Washington State Office of the Insurance Commissioner (OIC) have been trending upward in recent years and that many consumers are inquiring about insurance premium increases. Walker said when reviewing the complaints, the OIC staff noticed that the lack of transparency about premium changes to their policyholders contributed to these trends. When reviewing complaints from February 2021 to January 2022, the OIC found more than 5,000 consumer inquiries and complaints referenced credit scoring and underwriting transparency.

The consumer complaints indicated that policyholders were not receiving detailed explanations about the factors contributing to their insurers' premium increases. Insurer responses to policyholders were overly technical and did not always apply to their policy. Walker said the OIC identified that transparency in the reasons behind a premium increase would benefit policyholders in making informed decisions on their insurance policies regarding coverages and the pricing of renewals.

Following the OIC's consumer complaint data review, the OIC reviewed its current state of authorities to determine an insurer's responsibilities and duties under Washington's insurance code. The Washington Insurance Code indicates that insurers must send a renewal notice and provide the new premium at least 20 days before the renewal of an insurance policy. Additionally, the insurance code indicates that not providing a renewal notice would be an unfair trade practice. The code also gives insurers a time frame to respond to a consumer complaint. While the OIC has authority on adverse actions and notification requirements for not following this code, none of these authorities sufficiently disclose the totality of financial factors and underwriting decisions to policyholders. Walker said the OIC researched what other states were doing to address premium increase notifications, as well as reviewing the National Council of Insurance Legislators' (NCOIL's) Insurance Underwriting Transparency Model Act and the NAIC consumer guides for personal auto and homeowners insurance.

Walker said the OIC identified some issues during the review process. These issues included: 1) consumers contacting the OIC to complain about their insurer not providing premium change transparency; 2) complaints centered on premium increases and not decreases; 3) complaints identified in certain lines and types of insurance; 4) conditional renewal notice requirements vary by state and insurance classification; and 5) premium change transparency can be complex, confusing, or even frustrating having experienced increased costs and waiting for delayed insurer responses.

Walker said the OIC's potential solutions to the lack of the policyholder's understanding of their premium increase included: 1) achieving increased premium change transparency between the insurer and insured without having a consumer complaint; and 2) upholding the public interest in the business of insurance, while avoiding unfair trade practices.

Walker said the process followed for initiating rulemaking included: 1) a preproposal statement of inquiry; 2) an adaptive timeline to allow the time to get the rulemaking right; 3) assembling a rulemaking team that included staff across the different divisions; and 4) enhanced outreach and coordination, which included written comment periods, draft rules, stakeholder meetings, continued correspondence, and industry surveys.

The OIC only requires a rulemaking notice once per the OIC's Administrative Procedure Act. However, the OIC wanted to increase its efforts with coordination and engagement so the regulation would work for all stakeholders. The OIC increased opportunities to participate in the rulemaking process by creating four prepublication drafts and holding five interested parties' meetings, one for each draft. The OIC also conducted an industry survey through which it learned that additional time for implementation would ease industry impacts. Additionally, the OIC found that changing some of the provisions would reduce regulatory burdens while still achieving the same consumer protections.

Finally, the OIC engaged in the agency and rule team meetings that included interested parties, individual insurers, industry trade representatives, producer advisory committees, and the NAIC. These meetings identified the pivotal points in the rulemaking. One of the focus areas was the scope of applicability (i.e., where these rules would apply). The timelines for consumers and insurers to request and receive transparency were an important part of the process. Other pivotal points included communication standards, the notice method and medium for distribution, like the form and content, requests for additional information, and the appropriate penalties.

The OIC narrowed the scope of its rule to private passenger automobile (PPA) coverage, homeowners and renters coverage, and dwelling property coverage. The scope eliminated surplus lines, earthquake coverage, personal liability and theft coverage, personal inland marine coverage, and mechanical breakdown coverage for personal auto or home appliances. The decision to narrow the scope of the rule was based on the areas in which the agency received complaints.

Additionally, the OIC revised and updated its thresholds from "any premium change" to apply only to increases and not decreases, as the OIC has not received complaints regarding premium decreases. The OIC also has two phases of requirements, as insurers will need to update their legacy systems and start creating a record of the renewal transaction. During Phase 1, the threshold for triggering notice is "upon request," requiring a written request. Three years later, in Phase 2, insurers must provide notice for premium increases of 10% or higher; the transition to the second phase is automatic.

The OIC revised the disclaimer requirements, making revisions need only be published on the renewal notices and billing statements. The original rulemaking proposal required this information to additionally be placed on the insurer's internal websites, declaration pages, and applications. This change reduces regulatory burdens but still provides the same level of consumer protection.

The OIC optimized communication standards. These standards will be phased in over time. Insurers must include a "reasonable explanations" section in their premium change notices for insurance policies renewed on or before June 1, 2024. For insurance policies renewed on or after June 1, 2027, insurers shall provide premium change notices with a "reasonable explanation and the primary factors" applicable to the premium increase. The primary factors must include those that most commonly cause premium increases or those of such high importance or interest to the consumer that they should be communicated in the process. The OIC removed the requirement to



provide 100% itemization of the premium charge that was in the original rulemaking and replaced it with a narrative approach.

The final rulemaking adopted by the OIC included: 1) a more limited scope than it initially set out to receive; 2) a broad set of exemptions and exceptions; 3) a limited threshold requiring notices to be sent; 4) a phased implementation timeline; 5) phased communication standards; 6) a notice distribution; and 7) a notice template. The OIC plans to track the rule's effectiveness by tracking consumer contacts and complaints to the agency and to the consumer protection division. The OIC also plans to communicate with its consumer advocacy program to see if consumers are receiving the transparency they need to make informed renewal decisions. The OIC will also watch for substantiated investigations and agency enforcement actions to see where there have been either decreases in consumer complaints or increases in investigation and enforcement actions.

Henderson asked if the OIC received much pushback from insurers when it put the rule into production. Walker said the OIC received a large amount of pushback from insurers. He said the insurers and trades representing the insurers indicated they do not get a lot of requests from policyholders regarding their premiums. Walker said the OIC data provided information showing they were being contacted yearly by thousands of consumers regarding premium increases.

Henderson asked if the reason policyholders were not contacting insurers was due to the possibility that consumers did not know they could contact their insurers. Walker said he was unsure, but insurers did say putting the disclaimer requirement on the first page, or a review of renewal notices and billing statements, would allow more consumers to request information from the insurer.

Hurtado asked if the OIC has changed how it views and reviews the models received by insurers and if the OIC is asking for information during the review. Walker said that when the OIC looked at the issue of composite rating variables, it noticed there are insurers that are communicating this information with spreadsheets and intricate insurance terminology that the average consumer would not understand without additional education or assistance in the process. He said the OIC looked at solutions offered by other states and insurers that had best practices in place. Walker said they observed that some insurers, with no regulations for disclosure of premium increases, do a great job explaining some of the composite rating variables in a way policyholders can understand. He said he does not believe the OIC has changed any protocols for the internal review of filings of rates. Walker will follow up with the OIC analysts and actuaries to see if there have been any optimizations in their divisions and their review protocol.

Walker said the OIC tried to set a floor with the way it defined its communication standards so policyholders could get a reasonable explanation in terms that are understandable by the average policyholder. The OIC rule lets insurers know they must provide a reasonable explanation following the same standard. Walker said it may require a request for information, and the OIC may have to wait and see if any issues are identified in implementing that framework.

Tony Cotto (National Association of Mutual Insurance Companies—NAMIC) asked if Washington's population growth in various geographic regions affected the number of complaints or if the population was considered. Walker said the OIC did not track population growth data in its transparency rulemaking.

## 2. Heard a Presentation on Indiana Legislation

O'Connor said Rep. Matt Lehman (R-IN) has been working on a transparency bill for several years in Indiana and at NCOIL. While NCOIL continues to work on a data transparency model, the Indiana legislature passed Insurance Matters (H.B. 1329). This legislation included compromised language from the original proposal. O'Connor said

some items, including the 10 most heavily weighted factors, were not included in the bill. He said HEA 1329 includes changes to the producer continuing education (CE), public adjusters, stop loss coverage, anti-rebating, health maintenance organization (HMO), and Medicare eligibility statutes.

O'Connor said the Indiana Department of Insurance (DOI) is tasked with the implementation of the bill. The bill applies to automobile and homeowners policies issued after June 30, 2024. Once the law goes into effect, an increase of more than 10% over the expiring premium or another adverse or unfavorable change in terms of coverage or amount of insurance in connection with a personal auto or homeowners policy will require notice to the policyholder. A material change does not include: 1) an increase in an insurer's filed rate plan and automatic inflationary increases; 2) an additional premium due to a change initiated by the insured; 3) an additional premium due to a change in risk exposure as a result of an insured's participation in a usage-based or telematics program; or 4) changes resulting from a property inspection.

If an insurer is going to make a material change, it must provide written notice to the insured that explains the principal factors for the material change or states that the insured has a right to request and obtain an explanation of the principal factors for the material change. The insurer must provide a copy of the written notice to all applicable parties, like: 1) the insurance producer (if any) representing the insured in obtaining coverage; and 2) the insurer portal for agent communications.

The notice of material change: 1) may be provided by mail or electronically; 2) must be sufficiently clear, and language must enable the insured to identify the basis for an insurer's decision to make the material change; 3) must include a description of the principal factors most heavily weighted by an insurer in making a material change; 4) may provide a point of contact where the insured may discuss the reasons for the material change; and 5) does not require the disclosure of factors otherwise disclosed to the insured.

Examples of statements that would not meet written notice requirements include: 1) material change based on the insurer's internal policies, standards, or models; 2) the insured failed to achieve a particular score on the insurer's scoring system; 3) a statement containing generalized terms; and 4) a statement that change is being made is due to the insured's poor credit history, poor credit rating, or poor insurance score.

O'Connor said the requirements are still a work in progress. It is required that the commissioner adopt the rules to implement the chapter. There is a monetary penalty for a violation, and the commissioner is solely responsible for enforcing the chapter.

O'Connor said the law was effective July 1, 2023. However, the chapter is not effective until after June 30, 2024. The requirements are heavily insurer-focused and do not require any Indiana DOI interpretations. The Indiana DOI has not begun the rulemaking process.

Bradner asked what heavily insurer-focused means. O'Connor said this is going to be incumbent on the insurers. Insurers must meet and work with the DOI because they want insurer feedback. The Indiana DOI will include a variety of stakeholders with whom they will work.

Ken Klein (California Western School of Law) said when there is something specific to how a consumer behaves or what a property looks like might drastically change the premium to a policy, he is interested in the thinking behind making an exception for those instances from telling the consumer why their premiums have changed. O'Connor said insurers must price a policy for risk. If there are things on the property, without regard to income or a variety of matters, that an insurer was unaware of that increase risk, that can be considered.

3. Discussed Any Other Matters

NAIC staff will set up a meeting for the drafting group to continue looking at the NAIC disclosure drafts, taking the information highlighted in the presentations today into account.

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

SharePoint/NAIC Staff Support Hub/Committees/C Cmte/2023 Fall/Transparency/0926 Transparency Minutes.docx

Draft: 10/24/23

Adopted by the Executive (EX) Committee and Plenary, Dec. \_\_\_\_\_, 2023

Adopted by the Property and Casualty Insurance (C) Committee, Dec. \_\_\_\_\_, 2023

## ~~2023~~ 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 related to risk retention groups (RRGs). If warranted, make appropriate recommendations to the Risk Retention Group (E) Task Force for 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:
    - i. Serve as a forum for discussing issues related to the interaction of federal crop insurance programs with state insurance regulation.
    - ii. Review law changes and court decisions, and, if warranted, make appropriate changes to the *Federal Crop Insurance Program Handbook: A Guide for Insurance Regulators*.
    - iii. 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.
  - L. Study and report on the availability and affordability of liability and property coverage for non-profit organizations.
  - M. Assist state insurance regulators in better assessing their markets and insurer underwriting practices by developing property market data intelligence so regulators can better understand how markets are

performing in their states, and identify potential new coverage gaps, including changes in deductibles and coverage types, and affordability and availability issues. Provide analysis of property insurance markets to states.

- N. Provide a forum for discussing issues related to the use of telematics in 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 and regulation involving cannabis, especially as it pertains to that would protecting financial institutions from liability associated with providing services to cannabis businesses operating legally under state law.
- B. Support insurance regulators' efforts to encourage the development of admitted market insurers, as well as the expansion of existing admitted market insurers, and reinsurers supporting the market, to ensure coverage adequacy in states where cannabis, including hemp, is legal.
- C. Stay abreast of new products and innovative ideas that may shape insurance in this space. Provide insurance resources to insurance regulators and stakeholders, and keep up with new products and innovative ideas that may shape insurance in this space as needed.
- D. Explore potential sources of constraint to coverage limits and availability of cannabis insurance products within the admitted and non-admitted market. Explore the effect of the use of cannabis and related products on P/C insurance lines of business. Use information gained to develop an appendix to the Understanding the Market for Cannabis Insurance 2.0 white paper.

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, including mitigation efforts being used in states and investigating loss trends in homeowners markets, with the goal to provide rate stability in the marketplace and protect consumers.
- 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. ~~Draft~~ Complete the drafting of a Catastrophe Modeling Primer that addresses the basic concepts of catastrophe modeling.
- 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, severe convective storms and wildfire matters of concern to state insurance regulators.
- H.I. Work with the Catastrophe Modeling Center of Excellence (COE) in order to be aware of what states are doing on related to mitigation.

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.

B. Liaise with insurers and FEMA to provide timely information to necessary parties following a catastrophic loss.

A.C. Discuss ways in which states in the same FEMA region can collaborate and share information with other states in their FEMA region.

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. Discuss disclosures for 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 with more diverse populations, such as rural communities.

NAIC Support Staff: Aaron Brandenburg

Adopted by the Executive (EX) Committee and Plenary, Dec. \_\_, 2023

Adopted by the Property and Casualty Insurance (C) Committee, Dec. \_\_, 2023

Adopted by the Casualty Actuarial and Statistical (C) Task Force, Oct. 10, 2023

**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 regarding casualty actuarial issues, including the development of financial services regulations and statistical reporting, including disaster.
  - i. Property and Casualty Insurance (C) Committee: Ratemaking, reserving, or data issues.
  - ii. Blanks (E) Working Group: Property/casualty (P/C) annual financial statement, including Schedule P; P/C quarterly financial statement; P/C quarterly and annual financial statement instructions, including the Statement of Actuarial Opinion (SAO) and Actuarial Opinion Summary Supplement.
  - iii. Capital Adequacy (E) Task Force: P/C risk-based capital (RBC) report.
  - iv. 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*.
  - v. Speed to Market (D) Working Group: P/C actuarial sections of the *Product Filing Review Handbook*.
- B. Monitor national casualty actuarial developments and consider regulatory implications.
  - i. Casualty Actuarial Society (CAS): Statements of Principles and Syllabus of Basic Education.
  - ii. American Academy of Actuaries (Academy): Standards of Practices, Council on Professionalism, and Casualty Practice Council.
  - iii. Society of Actuaries (SOA): ~~General insurance track's basic education~~ Anticipated changes to education pathways.
  - iv. 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:
  - i. Facilitate training and the sharing of expertise through predictive analytics webinars (Book Club).
  - ii. ~~Review the completed work on artificial intelligence (AI) from other Committee groups. Coordinate with the Innovation, Cybersecurity, and Technology (H) Committee and the Life Actuarial (A) Task Force on the tracking of new uses of artificial intelligence (AI), auditing algorithms, product development, and other emerging regulatory issues, in as far as these issues contain a Task Force component.~~ Discuss regulatory oversight of AI and machine learning (ML) in insurers' ratemaking, reserving, and other activities.
  - iii. With the NAIC Rate Model Team's assistance, discuss guidance for the regulatory review of models used in rate filings.
- E. Research cyber liability insurance and discuss regulatory data needs.

**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:
  - i. *Financial Analysis Handbook*.
  - ii. *Financial Condition Examiners Handbook*.
  - iii. *Annual Statement Instructions—Property/Casualty*.

- iv. Regulatory guidance to appointed actuaries and companies.
- v. Other financial blanks and instructions, as needed.

B. Assess the need for changes to the Property and Casualty Statement of Actuarial Opinion instructions upon release of the SOA's proposed changes to its education pathways.

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.
  - i. *Dwelling Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner's Insurance (Homeowners Report)*.
  - ii. *Auto Insurance Database Report (Auto Report)*.
  - iii. *Competition Database Report (Competition Report)*.
  - iv. *Report on Profitability by Line by State Report (Profitability Report)*.
- C. Enhance the expedited reporting and publication of average auto and average homeowners premium portions of the annual Auto Report and Homeowners Report.



Adopted by the Executive (EX) Committee and Plenary, \_\_\_\_\_, 2023

Adopted by the Property and Casualty Insurance (C) Committee, \_\_\_\_\_, 2023

Adopted by the Title Insurance (C) Task Force, Oct. 20, 2023

## 2024 Proposed Charges

### TITLE INSURANCE (C) TASK FORCE

The Title Insurance (C) Task Force will:

1. Discuss and/or monitor issues and developments impacting the title insurance industry, and provide support and expertise to other NAIC committees, task forces and/or working groups, or outside entities, as appropriate.
2. 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.
3. 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.
4. Update the *Survey of State Insurance Laws Regarding Title Data and Title Matters, 2019*.
5. Stay abreast of consumer issues and complaints submitted to states regarding title insurance. Consider regulatory best practices or standards related to consumer protection. (revised charge)
6. Evaluate alternative title products and provide guidance to state insurance regulators as needed. (new charge)

Draft: 7/6/23

Adopted by the Property and Casualty Insurance (C) Committee—

Adopted by the Surplus Lines (C) Task Force, Aug. 13, 2023

Adopted by the Executive (EX) Committee and Plenary, \_\_\_\_\_, 2023

Adopted by the Property and Casualty Insurance (C) Committee, \_\_\_\_\_, 2023

Adopted by the Surplus Lines (C) Task Force, Aug. 13, 2023

## 2024 Draft Charges

### SURPLUS LINES (C) TASK FORCE

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

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 industry data on U.S. domestic and non-U.S. surplus lines insurers participating in the U.S. market.
- 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.

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 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.

Adopted by the Executive (EX) Committee and Plenary, \_\_\_\_\_, 2023

Adopted by the Property and Casualty Insurance (C) Committee, \_\_\_\_\_, 2023

Adopted by the Workers' Compensation (C) Task Force, Oct. 18, 2023

2024 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: assigned risk plans; safety in the workplace; treatment of investment income in rating; occupational disease; cost containment; and 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 and Teleworking.

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.

Member Meetings/C Cmte/2023 Fall/WCTF/WCTF Adopted 101823.docx

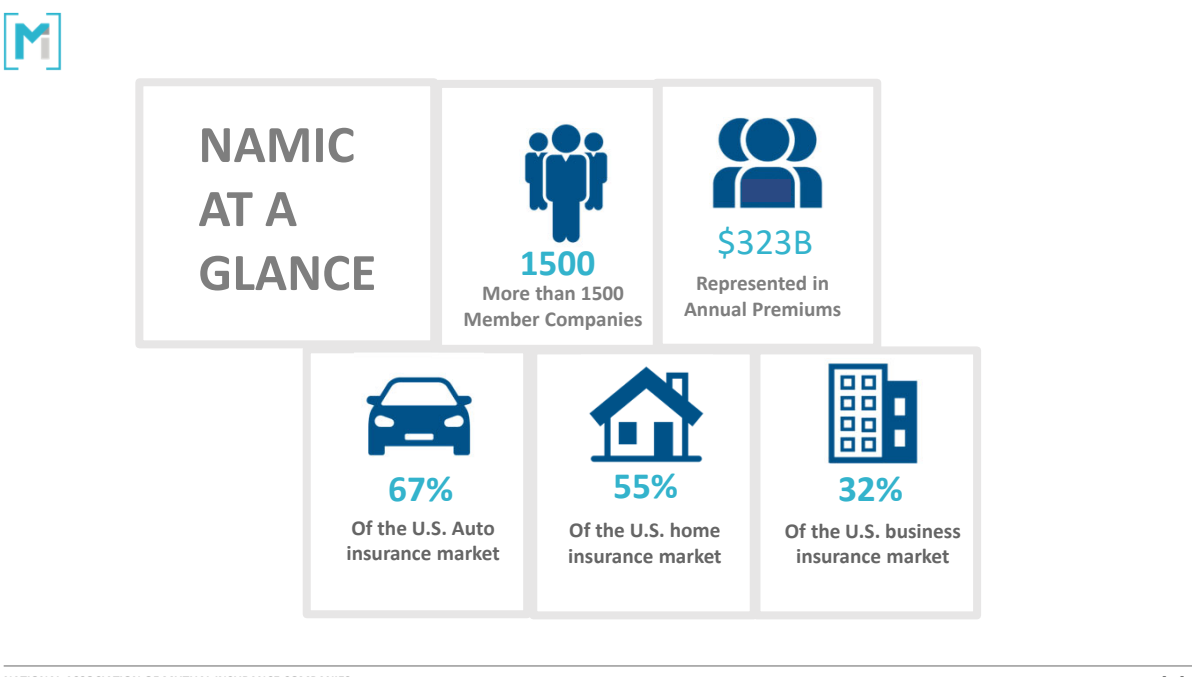


**NAMIC**  
NATIONAL ASSOCIATION OF  
MUTUAL INSURANCE COMPANIES  
*SHAPING OUR MUTUAL FUTURE®*






# NAIC PROPERTY AND CASUALTY (C) COMMITTEE

## DECEMBER 2023

1



**NAMIC AT A GLANCE**

 <b>1500</b> More than 1500 Member Companies	 <b>\$323B</b> Represented in Annual Premiums	
 <b>67%</b> Of the U.S. Auto insurance market	 <b>55%</b> Of the U.S. home insurance market	 <b>32%</b> Of the U.S. business insurance market

NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES [2]

2



## AUTO INSURANCE FUNDAMENTALS

- Auto insurance is mandatory under state law in 49 states
- Auto insurance is a highly regulated product
  - Detailed requirements are found across both traffic and insurance codes
  - Shared mission to reduce crashes and their impact on consumers
- Underwriting and rating auto policies is a complex, sophisticated, time-consuming exercise that aims to use credible data to correlate prices as closely as possible to the **likely** cost of claims
  - Rates are prospective; models are designed to be sensitive to frequency and severity fluctuations
  - More information enhances accuracy of expected costs and helps carriers better serve policyholders
- Auto insurance rates respond to systemic changes and behavioral patterns over periods of years as well as individualized events



NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

[ 3 ]

3



## AUTO INSURANCE RATING FACTOR PRINCIPLES

- Property/Casualty insurers' primary objective is to **match rate to risk** as closely as possible
- Accurate, data-based underwriting and pricing fuel competition and healthy markets
- Competition and healthy markets:
  - Increase availability of insurance and innovation
  - Improve consumer choices and service
  - Reduce consumer cost
- The best rating factors focus on:
  - Accuracy – Statistically significant correlation to losses
  - Homogeneity – Similar expectations of losses
  - Credibility – Sufficiently large observations
- Insurers must also consider:
  - Expense of administering factors
  - Objectivity of data
  - Accuracy of Data – Self-reporting / Validation challenges
- **Discrimination on the basis of risk is not unfair discriminati...**



NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

[ 4 ]

4



## CONTEXT: CURRENT STATE OF U.S. DRIVING

- **283 million** vehicles on U.S. Roads
- **230 million** licensed drivers
- **76%** of American commuters use their car to move between home and work
- **51 minutes** per day behind the wheel for average American in 2023 – 13 days



- **7 million crashes** per year
- **42,795 lives** lost on US roads in 2022; **117 lives** per day
- **391,000** injured in distracted driving crashes
- COVID deterioration in driving behavior has not abated

NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

[5]

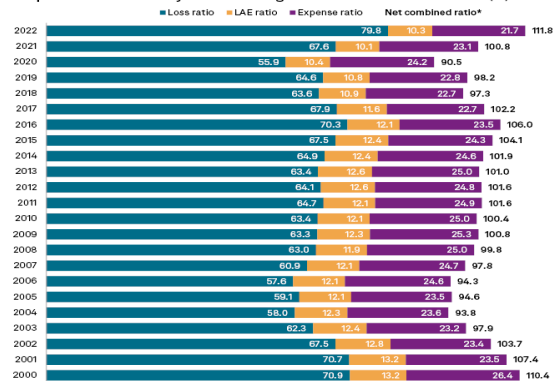
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## CONTEXT: AUTO INSURANCE MARKET CHALLENGES

- Auto insurers, like the rest of the industry, face a new era of risk:
  - More frequent and severe weather events
  - Social inflation and lawsuit abuse
  - Product inflation and labor shortages
  - Reinsurance challenges
- In 2022, the U.S. private passenger auto insurance industry recorded a historic negative net combined ratio: **111.8**.
  - Motor vehicle CPI up more than 3x overall CPI
  - Parts/labor availability and cost pressures
  - Repair times and rental fleets
  - 27% of crashes resulted in total losses

US private auto industry recorded large net combined ratio in 2022 (%)



Data compiled April 29, 2023.  
LAE = loss adjustment expense.  
\* Combined ratios displayed are before policyholder dividends.  
Data reflects the aggregation of all individual property and casualty filers that submit regulatory statements to the National Association of Insurance Commissioners.  
Based on information contained within the Insurance Expense Exhibit of the annual NAIC statutory property and casualty statement filings. US filers only. May include business written outside of the US if reported on NAIC statements.  
Source: S&P Global Market Intelligence.  
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NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

[6]

6



## TELEMATICS BASICS AND CONSUMER INTEREST

- Usage Based Insurance (UBI) programs are **voluntary**
- Measurements of **how** and **how much** you use your car
- UBI products are not new, but smartphone ubiquity and changes in driving patterns arising out of COVID have boosted interest significantly
  - Approximately 16 million U.S. drivers are insured through telematics programs
  - Participation has more than doubled in the last 5 years from 8% to 16%
- Geneva Association Report (2021)
  - 80% of drivers who started in “red” zone moved into “yellow” or “green” after telematics coaching
- Insurance Research Council Study (2022)
  - 77% of respondents consider themselves better-than-average drivers
  - 80% of telematics users reported making changes in driving behavior after receiving feedback
- J.D. Power Auto Insurance Study (2023)
  - 26% of customers new to an insurer with a UBI program choose to participate
  - Consumer price satisfaction is 59 points higher among participants

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[7]

7



## TECHNOLOGY AND METRICS

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>➤ Technology options           <ul style="list-style-type: none"> <li>➤ OBD II Port Plug-in</li> <li>➤ Smartphone App               <ul style="list-style-type: none"> <li>➤ Accelerometer</li> <li>➤ Gyroscope</li> </ul> </li> <li>➤ Proprietary Bluetooth Device</li> <li>➤ Connected cars</li> <li>➤ 12 V Connector</li> </ul> </li> <li>➤ Program variations           <ul style="list-style-type: none"> <li>➤ End of trip</li> <li>➤ Continuous evaluation</li> <li>➤ Trial period</li> <li>➤ Pay by distance</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>➤ Data Examples           <ul style="list-style-type: none"> <li>➤ Miles Driven</li> <li>➤ Acceleration</li> <li>➤ <b>Hard Braking</b></li> <li>➤ Cornering</li> <li>➤ Speeding</li> <li>➤ Phone Use / Distraction</li> <li>➤ Time of day               <ul style="list-style-type: none"> <li>➤ Nighttime</li> <li>➤ Rush hour</li> </ul> </li> <li>➤ Length of time driving</li> <li>➤ Idle time</li> <li>➤ Weather conditions</li> </ul> </li> </ul> |
|--|--|



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[8]

8



## CONSUMER BENEFITS

- Potential significant premium reduction
  - Enrollment Discount
  - Re-assessed either at set period, renewal, or ongoing basis
  - Trip-based rewards
- Enhanced fairness from enhanced accuracy
  - Policyholders are not punished for other people’s risky habits
- Driving assistance
  - Incentivizes better driving behavior and risk prevention
  - Coaching opportunities amid “gamification”
- Enhanced vehicle safety
  - Rapid crash detection and first responder notifications
  - Law enforcement ability to recover stolen vehicles/identify fraud
- Helping customer through a stressful event and claim



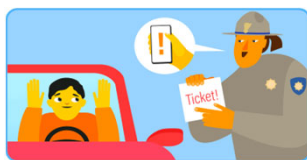
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[ 9 ]

9



## INDUSTRY AND SOCIETAL BENEFITS



- Better access to robust, normalized driving attributes
- Better outcomes initiated by distracted driving awareness and mitigation
- More engaged customers can improve retention
- Better claims handling workflows
- Assessment of “real” driving behavior
  - Not all distractions are equal
  - Not all unsafe driving practices are equal
- Societal benefits
  - Better information for law enforcement regarding violations
  - Less congestion, lower emissions
  - Enhanced road safety

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[ 10 ]

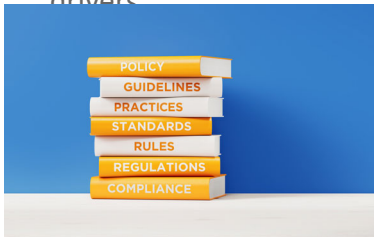
10





## TELEMATICS ARE PART OF FUTURE ROAD SAFETY

- Insurers and regulators should remain focused on policyholder safety
- Telematics programs help make policyholders more invested road safety stakeholders
- Objective is not only accuracy, but to positively influence driving behaviors and reward safer drivers



- Programs are already offered in compliance with all applicable state laws and regulations
- New laws and regulations are not needed – existing legal and privacy standards already apply to UBI product filings, including rating laws and unfair trade practice acts

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[ 11 ]

11



## NAMIC ROAD SAFETY COMMITMENTS

- Recent High-Profile Partnerships
  - Governors Highway Safety Association – [www.ghsa.org](http://www.ghsa.org)
  - National Alliance to Stop Impaired Driving – [www.nasid.org](http://www.nasid.org)
  - Partnership for Autonomous Vehicle Education – [www.pavecampaign.org](http://www.pavecampaign.org)
- Enhanced Participation in existing Industry Efforts
  - Advocates for Highway & Auto Safety – [www.saferoads.org](http://www.saferoads.org)
  - Coalition Against Insurance Fraud – [www.insurancefraud.org](http://www.insurancefraud.org)
  - Insurance Industry Committee on Motor Vehicle Administration – [www.iicmva.amplivity.com](http://www.iicmva.amplivity.com)
  - Insurance Institute for Highway Safety / Highway Loss Data Institute – [www.iihs.org](http://www.iihs.org)
  - National Insurance Crime Bureau – [www.nicb.org](http://www.nicb.org)
- Outreach to Establish Relationships with additional Stakeholders beyond Insurance
  - American Association of Motor Vehicle Administrators – [www.aamva.org](http://www.aamva.org)
  - National Association of City Transportation Officials – [www.nacto.org](http://www.nacto.org)
  - National Safety Council – [www.nsc.org](http://www.nsc.org)
  - National Judicial College – [www.judges.org](http://www.judges.org)

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[ 12 ]

12



**TONY COTTO, ESQ.**  
**PUBLIC POLICY COUNSEL**  
**[ACOTTO@NAMIC.ORG](mailto:ACOTTO@NAMIC.ORG)**

# CMT's Mission:

Make the World's Roads and Drivers Safer



# CMT's DriveWell<sup>®</sup> Fusion Platform

## Data Sources



IoT sensors



Phone sensors



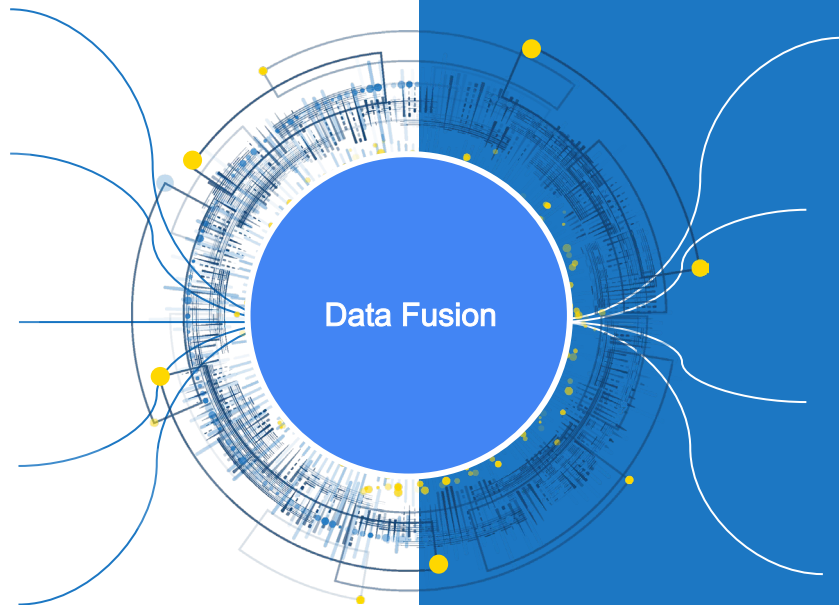
Vehicle sensors



Video



Fleet devices



## Insights Delivered

Risk scoring



Crash assistance



Claims automation



Risk Reduction



# J.D. Power: Increased UBI, communication have kept auto satisfaction steady

Customers aren't happy about auto rate increases, but have found value in usage-based technology and transparency from their insurers.

By **Brittney Meredith-Miller** | June 14, 2022 at 12:05 AM

- **Usage-based insurance sees record adoption:** Participation in usage-based insurance programs, which use telematics technology to monitor driving habits and assign risk and pricing accordingly, has doubled since 2016, with 16% of auto insurance customers now participating in such programs. Price satisfaction among customers participating in these programs is 59 points higher, on average, than among customers overall.



## Nationwide SmartRide® (4+)

Nationwide Mutual Insurance

Designed for iPhone

#104 in Navigation

★★★★★ 4.5 • 831 Ratings

Free

### Ratings and Reviews

4.5 out of 5

831 Ratings



[See All](#)

★★★★★  
Daddys Priss, 03/27/2022

Wish I had been given more instructions I do like the ap. Don't we all like to know [more](#)

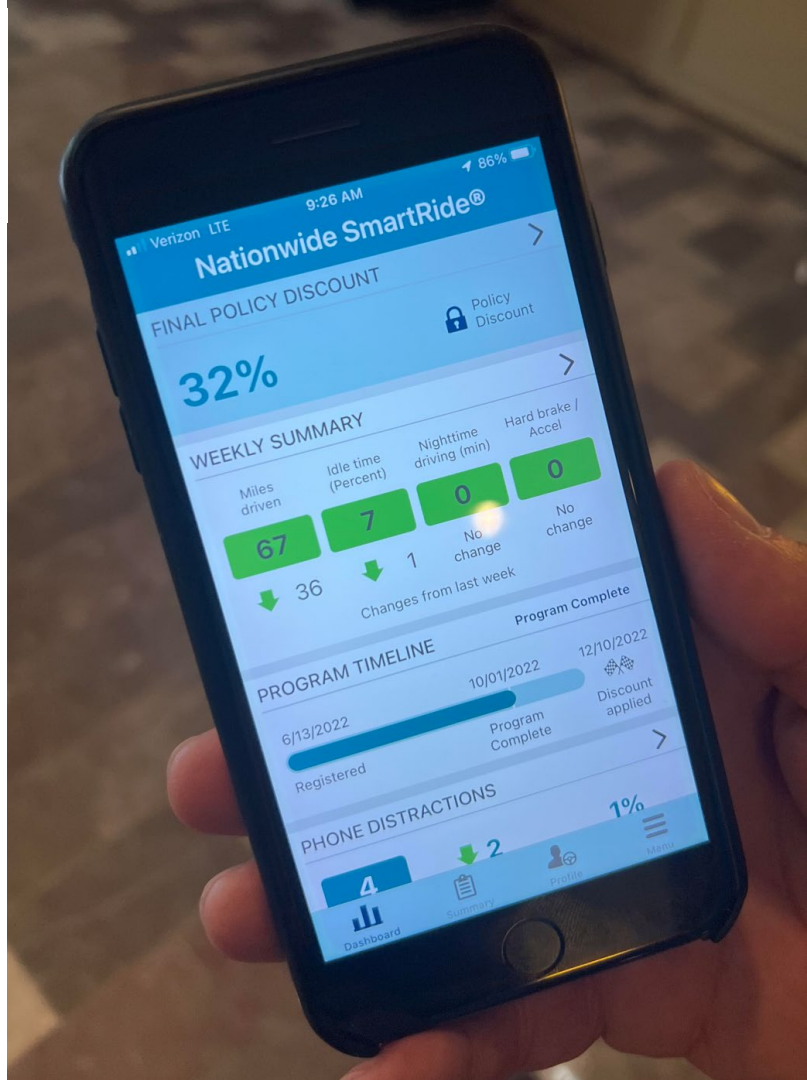
**Developer Response,**  
We apologize and would like to help resc [more](#)

★★★★★  
UserX123, 02/13/2023

Surprisingly Good App  
Before using the app I would have guessed this would be a 1-2 star rating but the app is very well designed. I'm not the biggest fan of the scoring parameters but I recognize t [more](#)

★★★★☆  
Discojenb, 01/25/2022

Easy to use app  
Turn it on in and let it run in the background! Interesting to see how many miles have been driven vs. how much idle time is spent in the car in traffic. Tracking hard braking even [more](#)



# Publishing and Reducing Risk



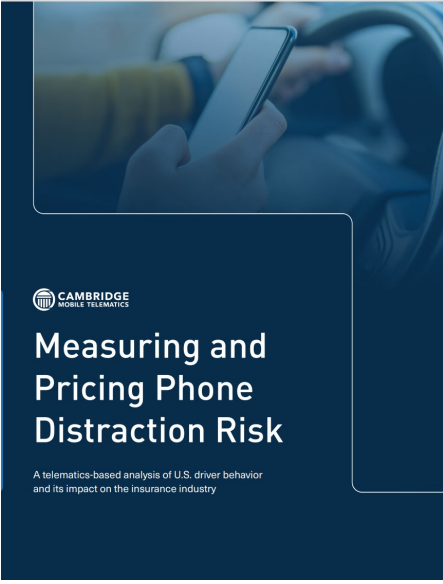
The Harsh Realities of Phone Distraction

The U.S. is ill-equipped to address this slow-moving disaster and needs smarter solutions.

A DATA-DRIVEN ANALYSIS FROM CAMBRIDGE MOBILE TELEMATICS

CAMBRIDGE MOBILE TELEMATICS

This report cover features a blue-tinted photograph of a person's hands holding a smartphone while driving. The text is white and positioned in the lower half of the image.



CAMBRIDGE MOBILE TELEMATICS

Measuring and Pricing Phone Distraction Risk

A telematics-based analysis of U.S. driver behavior and its impact on the insurance industry

This report cover features a blue-tinted photograph of a person's hands holding a smartphone while driving. The text is white and positioned in the lower half of the image.



CAMBRIDGE MOBILE TELEMATICS

2022 US Distracted Driving Report

This report cover features a blue-tinted photograph of a person's hands holding a smartphone while driving. The text is white and positioned in the lower half of the image.



The State of Distracted Driving in 2023 & the Future of Road Safety

4<sup>th</sup> EDITION  
A DATA-DRIVEN ANALYSIS FROM CAMBRIDGE MOBILE TELEMATICS

CAMBRIDGE MOBILE TELEMATICS

This report cover features a blue-tinted photograph of a person's hands holding a smartphone while driving. The text is white and positioned in the upper half of the image.

Discovery

# The journey of creating a nation of great drivers.

A VITALITY DRIVE WHITE PAPER

June 2021

Driving profile	Monthly points
597750	230/250

**Latest Trip**  
AUDI A3 SPORTBACK 1.4TFSI 5 2014 C58B210  
Yesterday at 16:34 Perfect  
11.4 km, 19 min



25% Reduction in Frequency





# SUMMARY REPORT

## COMPARATIVE EFFECTIVENESS OF ALTERNATIVE SMARTPHONE-BASED NUDGES TO REDUCE CELLPHONE USE WHILE DRIVING: FINAL REPORT

### TABLE OF CONTENTS

EXECUTIVE SUMMARY	2
INTRODUCTION	2
Risks of Distracted Driving	2
Usage-Based Insurance	3
Ingredients for Behavior Change	3
The Present Research	4
TRIAL 1: FEEDBACK AND FRAMED INCENTIVES	4
Background	4
Method	4
Participants	8
Results	10
TRIAL 2: BUILDING SUSTAINABLE HABITS	12
Background	12
Method	13
Participants	17
Results	20
CONCLUSIONS	22
REFERENCES	23

**FHWA Publication No.: FHWA-HRT-22-057**

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**Principal Investigator: M. Kit Delgado<sup>1,2,4</sup> [mucio.delgado@penncare.upenn.edu](mailto:mucio.delgado@penncare.upenn.edu).**

From the (1) Behavioral Science and Analytics For Injury Reduction Lab, (2) the Penn Injury Science Center, and the (3) Center for Health Incentives and Behavioral Economics, University of Pennsylvania, (4) the Center for Injury Research and Prevention, Children's Hospital of Philadelphia, (5) TrueMotion, Inc., and (6) The Progressive Corporation.

Note: All authors contributed to both randomized control trials except for Finegold, Kotrc, and Radford, who contributed to trial no. 1 only.

This document is a technical summary of the Federal Highway Administration report, *Comparative Effectiveness of Alternative Smartphone-Based Nudges to Reduce Cellphone Use While Driving: Final Report* (FHWA-HRT-22-057).

Funding: Federal Highway Administration Exploratory Advanced Research Program (FHWA Contract No. 693J31750012)



Ability to reduce risk behavior in teen driving populations



U.S. Department of Transportation  
**Federal Highway Administration**

Research, Development, and Technology  
Turner-Fairbank Highway Research Center  
6300 Georgetown Pike  
McLean, VA 22101-2296

<https://highways.dot.gov/research>





## The utility of telematics data for estimating the prevalence of driver handheld cellphone use, 2019–2022

August 2023

Ian J. Reagan  
Jessica B. Cicchino  
Eric R. Teoh



3<sup>rd</sup> party analysis of population wide distracted driving risk from NHTSA source, confirmation of measurement



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VISION ZERO SUCCESS STORY — BEHAVIORAL

## Safest Driver Contest — Boston, Massachusetts

FHWA is pleased to present this vision zero success story. While behavioral initiatives don't typically fall under FHWA's purview, they play a critical role in reaching our goal of zero deaths, and our part of our shared responsibility to reduce fatal or serious injuries. For more information on safe driving behaviors, please visit our partner agency, the National Highway Safety Administration (NHTSA) at: <https://www.nhtsa.gov/road-safety>.

### Key Successes

Two seasons of the Boston "Safest Driver Contest" yielded the following results. During the **first season**, the top 25% of drivers showed:

**47%** -reduction in distraction.

**37%** -reduction in harsh braking.

**35%** -reduction in speeding.

During the **second season**, 35 days after registration, participants showed:

**48%** -reduction in distraction.

**57%** -reduction in harsh braking.

**38%** -reduction in speeding.

Mayor Martin J. Walsh commented, *"I'm proud of our winners and their contribution to make our streets safer. The City of Boston is committed to ensuring our streets work for everyone, and by investing in programs such as Boston's Safest Driver, we will continue to emphasize the importance of safe streets, and safe driving habits."*

There was positive public response to the contest. *"Interest in the contest was contagious,"* said the 2019 Slow and Steady Driver prize winner Jenn Brandel. *"Once my family and friends learned about the competition, they started trying to outdo each other and get higher scores. While I'm bracing myself for jokes about being the Slow and Steady winner, I've learned to become a more patient and careful driver."*

### Background

The City of Boston's Mayor's Office of New Urban Mechanics (MONUM) championed the inaugural "Safest Driver Contest."<sup>1</sup> As a partnership between the Vision Zero Task Force, MONUM, and the Transportation Department, the Safest Driver Contest held its first season in 2016 and a second season in 2019. Similar contests have been held in other cities including Seattle, San Antonio, and Los Angeles.

The contest aimed to change driver behavior by offering incentives to participants who adopted safe practices while behind the wheel. Participants downloaded an app that used five performance evaluation metrics to assess each driver including braking, acceleration, speeding, cornering, and distraction. The app made calculations for these metrics based on the phone's GPS, accelerometer, and gyroscope. The app collected and stored the monitored behaviors of individual drivers for each trip.

### Contest Details

**Season 1 (2016):** The first season of Boston's Safest Driver Contest occurred from October 3, 2016 to December 3, 2016 and included nearly 5,000 participants. The app assessed and ranked the drivers by their overall safety scores. Weekly prizes included the top three drivers of the week and the most improved driver.

<sup>1</sup> <https://www.boston.gov/departments/new-urban-mechanics/bostons-safest-driver-competition>



Study and confirmation of “Key Success Story” on reducing roadway fatalities by FHWA

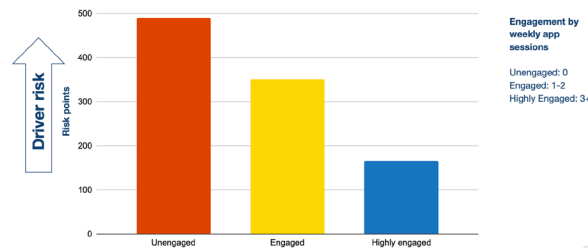




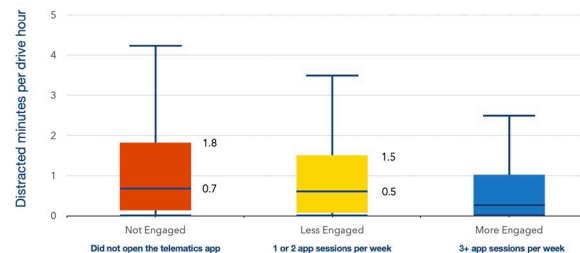
Full Title:	Motivating Safer Driving with Telematics
Abstract:	Driving is the most perilous daily undertaking for most Americans, underscoring the paramount importance of road safety. Telematics-enabled Usage-Based Insurance (UBI) financially incentivizes drivers to avoid dangerous behaviors by gathering sensor data and providing immediate feedback on risky behaviors, including hard braking, speeding, and distraction. Although specific financial UBI incentives for safe driving vary, some examples include discounts on insurance premiums and periodic monetary rewards. This research examines the impact of telematics-enabled UBI programs on driving behavior. We first demonstrate the significance of driver feedback and gamification in reducing the incidence of hard braking, demonstrating a reduction in hard braking by 15% that persists months into the study. Second, we explore changes in user behavior during UBI program participation and emphasize the crucial role of user engagement in enhancing safe driving behavior. Unlike prior research, this study assesses multiple risky driving behaviors, including hard braking, phone distraction, and speeding, while controlling for the primary risk factor, mileage. For the three risky behaviors considered, we establish the connection between program engagement and improved driving behavior, highlighting the importance of engagement in program design.
Manuscript Classifications:	Data and Data Science; National and State Transportation Data and Information Systems AED10; Planning and Analysis; Effects of Information and Communication Technologies (ICT) on Travel Choices AEP35; Traveler Behavior and Values AEP30; Behavior Analysis; Safety; Safety Performance and Analysis ACS20; Transportation Safety Management Systems ACS10; Behavioral Safety Analysis and Program Development; Safety Data
Manuscript Number:	
Article Type:	Presentation
Order of Authors:	Lisa Pinals, Ph.D. Alex Kerin, Ph.D. Craig Van Alsten, Fellow of the Casualty Actuarial Society Richard Sharp, Ph.D. Samuel Madden, Ph.D.
Additional Information:	
Question	Response
The total word count limit is 7500 words including tables. Each table equals 250 words and must be included in your count. Papers exceeding the word limit may be rejected. My word count is:	7482
Is your submission in response to a Call for Papers? (This is not required and will not affect your likelihood of publication.)	Yes
Please specify which Call for Papers by selecting from the drop down list. <a href="#">View the more information about the Call for Papers here.</a> as follow-up to "Is your submission in response to a Call for Papers? (This is not	AME70 Expanding our Knowledge of Transportation and Health

## TRB 2024 - Reducing Crash Risk through Smartphone App Telematics

Engaged drivers are 65% safer



Engaged drivers are 57% less distracted



Contact:  
**Ryan McMahon**  
**Cambridge Mobile Telematics**



Confidential & Proprietary | Cambridge Mobile Telematics



*Presentation to NAIC Property & Casualty Committee  
December 3, 2023*

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# Agenda

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- RiverStone Overview
- Third-Party Litigation Funding (TPLF) Overview
- Practical Solutions
- Questions/Comments



# RIVERSTONE OVERVIEW

# Overview of RiverStone

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- RiverStone is the specialized manager for the worldwide run-off operations of Fairfax Financial Holdings Limited.
- Primary business includes the management of affiliate legacy liabilities and the acquisition of companies and portfolios that are discontinued.
- RiverStone currently manages approximately \$1.6 billion of net insurance liabilities.
- Over our nearly 25-year history, RiverStone has emerged as an industry leader in developing and providing risk solutions to affiliates and sellers of legacy business.
- Our philosophy is to meet policyholder obligations while delivering value.
- Given the nature of our liabilities, RiverStone has acted as agent of change in U.S. mass tort legal system for benefit of all stakeholders.



# Overview of Mass Tort Trends

TALC



OPIOIDS



PFAS



SEXUAL ABUSE



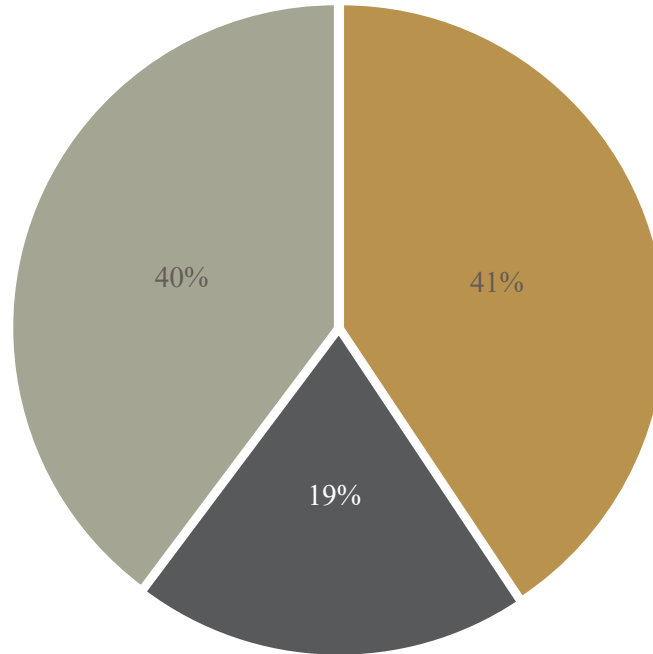
HEAD TRAUMA



# The Cost of Litigation

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Where does the Money Go?



- Defense Cost
- Plaintiff Lawyer Fee
- Amount to Plaintiff



# TPLF OVERVIEW

## THIRD PARTY LITIGATION FUNDING

- TPLF is a financial arrangement where a third-party funder invests money in a lawsuit in exchange for a percentage interest in the potential recovery from a settlement or award.
- 2 Types of Funding:
  - **Consumer Funding** between a funder and an individual typically in small amounts given directly to the plaintiff for living expenses.
  - **Commercial Funding** is between a funder and a corporate litigant or law firm and funding is typically in the millions and involves mass tort litigation. Commercial funding is a major litigation driver.
- There are few rules requiring disclosure, making it difficult for judges and parties to know whether a funder has an interest in the outcome of the case or has control of the strategic litigation and settlement decisions.

# *How Mass Torts/TPLF Affect Insurance*

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- Traditional mass tort model: an individual seeks a lawyer to represent him/her under a contingency basis.
- Today's "modern" mass tort litigation: lawyers develop a tort theory, engage third-party investors, and use some of that money to develop "junk science" and recruit plaintiffs through mass advertising.
- There are at least 47 identified commercial funders that reported a total of \$12.4 billion in assets under management in the US alone over the last 11 years.
- Approximately 70% of those funded assets are invested in mass tort litigation.
- Funders are using litigation as a vehicle to secure a safe return on investment.
- The influx of TPLF in mass tort litigation has reshaped the traditional civil justice system.

- Fundamentally, turns the civil litigation system into a profit center/investment vehicle.
- Practically, lack of disclosure of commercial TPLF agreements has several knock-on effects:
  - Plaintiffs may not even know their lawyer has an agreement with a funder.
  - Unclear who controls the strategic decisions in the litigation.
  - Complex commercial litigation harder and more expensive to settle cases.
  - Cost driver that fuels nuclear verdicts.
  - Greater share of litigation awards or settlements to lawyers and funders.

# *TPLF – What is Being Done About it?*

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- Existing federal court rules requiring TPLF disclosure
- Recent mass tort cases ordered disclosure of TPLF
- Recent state legislation
- Congressional Hearing
- Foreign security risk bill pending in Congress



# PRACTICAL SOLUTIONS



# *What Can Regulators Do?*

---

## **SUPPORT DISCLOSURE OF TPLF**

- Where appropriate, consider support for legislation, court rules, or other mechanisms to require disclosure of TPLF agreements in all commercial litigation in your respective states.

## **UNDERSTAND AND EVALUATE THE ISSUE**

- Consider the relationship between TPLF and potential impacts on insurance consumers.
- Consider the potential impact of commercial TPLF and mass tort litigation on insurance markets.

## **CONSIDER RIVERSTONE A PARTNER AND RESOURCE**

- Continued dialogue on the issue of TPLF.



# QUESTIONS/COMMENTS