

NATIONAL COUNCIL OF INSURANCE LEGISLATORS
NCOIL – NAIC DIALOGUE
SCOTTSDALE, ARIZONA
NOVEMBER 19, 2021
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) NCOIL – NAIC Dialogue met at The Westin Kierland Hotel in Scottsdale, Arizona on Friday, November 19, 2021 at 10:45 a.m.

California Assemblyman Ken Cooley, NCOIL Vice President and Chair of the Committee, presided.

Other members of the Committee present were:

Sen. Keith Ingram (AR)	Rep. Brenda Carter (MI)
Sen. Jason Rapert (AR)	Sen. Paul Utke (MN)
Sen. David Livingston (AZ)	Asm. Kevin Cahill (NY)
Rep. Tammy Nuccio (CT)	Sen. Bob Hackett (OH)
Sen. Travis Holdman (IN)	Rep. Tom Oliverson, M.D. (TX)
Rep. Matt Lehman (IN)	Del. Steve Westfall (WV)

Other legislators present were:

Rep. James Kaufman (AK)	Sen. Lana Theis (MI)
Rep. Deborah Ferguson (AR)	Sen. Michael McLendon (MS)
Rep. Stephen Meskers (CT)	Sen. Walter Michel (MS)
Sen. Jim Guthrie (ID)	Sen. Charles Younger (MS)
Rep. Craig Snow (IN)	Rep. Hank Zuber (MS)
Sen. Beverly Gossage (KS)	Sen. Jim Burgin (NC)
Rep. Mary DuBuisson (LA)	Rep. Carl Anderson (SC)
Rep. John Illg (LA)	Sen. Eric Nelson (WV)
Sen. Robert Mills (LA)	

Also in attendance were:

Commissioner Tom Considine, NCOIL CEO
Will Melofchik, NCOIL General Counsel

QUORUM

Upon a Motion made by Sen. Paul Utke (MN), and seconded by Sen. Jason Rapert (AR), NCOIL Immediate Past President, the Committee voted without objection by way of a voice vote to waive the quorum requirement.

MINUTES

Upon a Motion made by Rep. Tom Oliverson, M.D. (TX), and seconded by Rep. Tammy Nuccio (CT), the Committee voted without objection by way of a voice vote to adopt the minutes of the Committee's July 16, 2021 meeting in Boston, MA.

INTRODUCTORY REMARKS

Before moving to the agenda, Asm. Cooley recognized Florida Insurance Commissioner and National Association of Insurance Commissioners (NAIC) President, David Altmaier for introductory remarks

Cmsr. Altmaier thanked Asm. Cooley and stated it's really good to be here in such a beautiful venue but also back in person with all of you and having these conversations and we had some great discussions this morning and we're looking forward to continuing those discussions here with you all this afternoon. I think the fact that we've brought so many of us here is just a testament to the fact that we're looking forward to collaborating with NCOIL going forward as we have on many issues in the past. I think we all share a common interest in protecting state-based insurance regulation as we've seen a number of issues come up in the insurance space and in the broader financial services space, and we've seen a lot of activity by the Federal government and it's very important for us to demonstrate that states can continue to lead on important issues of this nature. We're very much looking forward to having those conversations with you all this afternoon. And I just want to commend you all on your attendance here at this meeting. I understand it's your largest meeting in terms of attendance and so congrats on that and I think we all should be commended for our ability to continue all of our operations throughout the pandemic in a virtual way, but I can tell you that on the NAIC side, and I'm sure in the broader sense, everyone is excited to get back together in person and I think the attendance here is a reflection of that. We're looking forward to some very productive conversations.

UPDATE ON STATE ADOPTION OF CREDIT FOR REINSURANCE MODELS

Asm. Cooley stated that one topic that we have been addressing for a long time is the adoption of the NAIC's credit for reinsurance models. This has been an important matter arising out of European and U.S. covered agreements and the NAIC has adopted amendments to its credit for reinsurance model and regulation addressing the requirements under the covered agreement between the U.S. and European Union and a similar covered agreement between the U.S. and the U.K. We have seen that the amended model law adopted in all but three states, plus the District of Columbia at this point. So, we have made good progress on that and twenty-two states I believe have followed up with adoption of the regulation on that topic. Asm. Cooley asked the NAIC representatives to talk a little bit about how they see closing out the remainder of the states. Asm. Cooley noted that we also know that there is a role that the Federal government plays in terms of following up and conducting some surveys about the states that are non-compliant. Asm. Cooley asked what the NAIC knows about that Federal government survey process.

Cmsr. Altmaier stated that this is an issue we had been working hard on and spending a lot of time on it. I'm going to ask Alaska Insurance Director Lori Wing-Heier to provide a quick overview of this and answer some of your questions. Dir. Wing-Heier stated that we are well aware that some of the states have not adopted it and how important it is that we all are compliant. We also are respectful of the fact that the pandemic put some of us a little behind but are working very hard to make sure by July 1st the law is adopted and signed and that the regulations will be done by September 20, 2022. There is probably nothing more important that we do than monitor solvency. So, I don't think there's a director, superintendent, or commissioner, or a legislature that doesn't understand how important it is that we respond to this. For those of who are unaware, and I know you have twenty-two new legislators, the European agreement and the UK agreement, the first one was signed by President Obama, the second one by President Trump. And what they are is an agreement where we recognize the same financial standards for reinsurers that are conducting business in the United States as well U.S. reinsurers that would be conducting business in the European Union or the U.K.

What this helps us is with is when we do a financial examination as we all do for our companies that are domiciled in our states, we know that when we go in that insurance company, that reinsurer has been examined under the same standards we are using for our own insurers. That's how we can best guarantee solvency. And that's basically a two minute primer on the reinsurance issues and I am confident we will be done by September 2022. We are working with the states and we will continue to do so.

Cmsr. Altmaier stated that the only thing that I would add is regarding the oversight from the Federal Insurance Office (FIO) in terms of monitoring compliance. We've had a number of very productive and constructive conversations with FIO. They've looked at the models that we adopted in order to comply with the covered agreements and have largely agreed that, assuming all the states adopt those, they won't have any issues from an implementation standpoint. So, that was really encouraging and good news to hear and as Dir. Wing-Heier mentioned, NAIC staff continues to work directly with individual states that are still working on adoption of either the law or the regulation, so that we can continue to have that a 100% across the board adoption. But we've gotten some really good feedback initially from FIO in terms of our models and their compliance with the covered agreement and I think all of us would be happy to answer any questions about this work that you all might have.

Asm. Cooley stated that I think for those in the audience who have an interest in maintaining state based regulation, if you know your state has not yet adopted the models, it's a good time to urge them to meet the deadlines as laid out by the NAIC today.

UPDATE ON NAIC SPECIAL COMMITTEE ON RACE IN INSURANCE

Asm. Cooley stated that an important topic in the last year and a half has been issues of race and insurance and you've had your ongoing work of your NAIC special committee and NCOIL had its own committee that met and has sunset since it met its two charges. Two issues, artificial intelligence in insurance underwriting and insurance score transparency were referred to some of our NCOIL standing committees for ongoing discussion. Yesterday on the insurance score transparency issue we had a general session with a great deal of conversation and interesting information on that topic. Asm. Cooley asked if an update could be provided as to where things stand within the NAIC on its special committee.

Cmsr. Altmaier stated that I'll go ahead and just quick give an overview of the work of the special committee. First of all, just by way of background, this is a committee that we started last summer under the leadership of Director Ray Farmer from South Carolina who was NAIC President at the time. To underscore the importance of this work at the NAIC all four officers have a leadership role on the committee, so the President and President-elect are the co-chairs and our Vice President and Secretary-Treasurer are our co-vice chairs. We've divided the work of the special committee up into five work streams. The first two work streams look at diversity within the insurance industry and diversity within the insurance regulatory community, respectively.

And then the next three deal with race and insurance issues in the property & casualty space, the life space, and in the health space. And so, that's what we've been working on so far. In terms of work that's been done recently, back in July our committee adopted the 2021 and 2022 charges and those charges are reflective of a lot of the initial discussions that those five workstreams have had. We also have been looking at our existing NAIC committee structure to find the most efficient use of that committee structure when we're working to meet out these

charges. For the most part, most of the five workstreams are going to continue to take the lead on issues of this nature, as they continue to have some important discussions. Workstream one has been having a lot of discussions with respect to diversity with the industry. And early this - this week they had a meeting with stakeholders to discuss some of the efforts that are ongoing within the industry and I should point out that in large part our regulatory community is pretty pleased with the industry's willingness to step up in this area and to really take the initiative in a proactive way to address a lot of these things.

Workstream number two is working on the same thing but instead of looking at the industry, looking at the insurance regulatory community. So, we're working now to gather some information from insurance regulatory departments in terms of best practices that might or might not exist in terms of looking within our regulatory community and ensuring that it's reflective of a diverse community that we oversee. So, workstream number three has a call scheduled for early next month. Workstream number three is working on issues within the P&C marketplace. They will likely begin work based on those discussions on some white paper activity that will look at some of the key terms in this space that could likely use some definitions - things like unfair discrimination, unfair bias, proxy discrimination, and disparate impact. Those are terms that get used a lot and I think there's an interest in discussing those terms and making sure everyone's on the same page with what we mean when we talk about those things.

Workstream number four, which is working in the life space, is collaborating with the other two subject matter workstreams in an effort to take advantage of some of the work that's being done there from a data collection standpoint. And then that brings us to workstream number five, which is focused on the health insurance space. They've made a lot of progress on a document with respect to principals for data collection. This is a document that's intended to establish some very high level guiding principles for the collection of and the treatment of data on race and ethnicity and other demographic characteristics in the health insurance industry. And I would imagine that as work continues with respect to those topics in the health insurance industry, workstreams three and four are likely going to be able to leverage a lot of those discussions as they consider the same issues in their own lines of business.

One thing I want to make sure is clear is that this is a principles document. It is not a document that imposes any kind of requirement or anything else of that nature on the industry at this point. We're just talking about principles to keep in mind as we go forward exploring this. We have just closed out a comment period on that and we've gotten a number of comment letters back on that document. We will likely be discussing those comments at the next couple of meetings and look to submit those recommendations to the larger special committee, probably sometime towards the end of this year or very early of next year. The full special committee is going to meet again at our meeting in San Diego on December 14th. We look forward to hearing some updates from all five workstreams at that point and spending time on some of the work that's been done. The last thing that I'll say is that we are very committed to the importance to having a very thoughtful and deliberative process and we are looking forward to engaging with as many stakeholders as we possibly can including NCOIL and our state legislatures around the country. And so, it's been productive so far and constructive but we've got some work ahead of us that we're all looking forward to.

Asm. Cooley asked how the committee's deliberative processes work as he is a little unclear with some of the charges as some of that got organized and put together and at some point the conversation gets pushed out in the public domain for feedback and so it's just a process question. In California, our constitution says you pass no law except by statute, no statute except by bill, and it forces everything in the public domain. We have special transparency

requirements for the conduct of our work. And I think that's sort of the framework I look at for any sort of sensitive conversation and I hear loud and clear it will be deliberative and open.

Cmsr. Altmaier stated that we did have some initial regulator only conversations but beyond that all of the charges and things of that nature have followed our existing NAIC process which is very transparent. We oftentimes tout globally the transparency of the NAIC and we're going to continue to strive for that on this issue as well. I'll use workstream number five as an example and the principles document that I referenced just a moment ago. We just concluded our second round of exposure on that and so that's been submitted to the public for comment at least twice now. They have a second exposure out now with respect to provider networks and looking at the impact of race and insurance issues on those. I anticipate that's going to continue to be robustly discussed in open meetings by workstream number five. And our special committee has not met in regulatory only session I think since the beginning of the year. All of their meetings have been open as well. And so, on all of the issues that we deal with at the NAIC, transparency is one of the most important things to us but especially on an issue of this nature that's so important and impacts so many people we're going to continue to be committed to a transparent process.

Asm. Cooley asked if there is a timeframe where the NAIC hopes to conclude its work. Cmsr. Altmaier stated that there are no real timeframes or deadlines on this because to be candid it there really aren't actually any hard defined deliverables at this point either. I think at this point and time we're just having conversations with stakeholders about things that could be barriers to access, that could be barriers to affordability that we might need to do some additional work on. I think the most tangible deliverable so far has been the information coming from workstream number five. But again, those are the kinds of things that since it's new and it's impactful, we want to make sure that we're not rushing that work and that we're being deliberative about it. We've seen other bodies in the past, some of the more global bodies that do some work, they've set deadlines and the deadline has kind of guided the work and in some cases, was detrimental to the overall product and we want to make sure that we avoid that and so we haven't set any hard and fast deadlines with respect to this work.

Rep. Stephen Meskers (CT) stated that he has a question on the process. What I hear the focus on, which I think is at some level very appropriate, is on access and dealing with risk pools in terms of the insurance products and market penetration and supply. You know, we tend to look as legislators and in the country we talk about equality of access and equality of outcome and not equality of opportunity. But I would suggest as regulated products one of the issues that should sit in front of us is, when we look at whether it's long term care (LTC), term life, whole life, P&C, it's not so much across economic but across racial divides and are we getting to the right levels of market penetration if we're looking for that. Because most of the products that we sell in the insurance industry are either risk mitigation or wealth transfer products essentially.

So, if we don't have an equality of outcome but if we don't measure the inequality of outcome among the same economic groups of different racial terms we may miss the penetration and we may not achieve the goal of trying to provide for a better equitable solution which is that when you look at two people of an income of \$75,000, you ask if the ownership of the insurance products that assist in that wealth is equal and is there an adequate display across those racial divides. We want to ensure everyone in the country is getting not only an equal opportunity but are we selling and marketing at the adequate level to get the outcomes because we are looking at some level at not just the disparity of discrimination and risk pools but are the outcomes equivalent for regulated entities and I'm not sure if we're doing that.

Cmsr. Altmaier stated that I think you've really touched on one of the important facets of the work that we're doing now which is how do we assess that? And one of the driving forces behind the principles on data collection document from workstream number five is, do we currently have enough existing data points to be able to assess whether or not those outcomes are equitable and if not do we need more, and how do we obtain that so that we can get right to the heart of the issue that you just raised. And so, I think that's one of the important facets of this work that we'll continue to work on.

Rep. Matt Lehman (IN), NCOIL President, stated that I just want to thank the NAIC for being here for also working on this issue. As you know we had our own committee where we went through some of these issues. I think we found some things that need to be addressed which leads into transparency which we'll maybe talk about that here in a little bit. But, we want to continue to be a partner in that and continue to have you reach out to us to see what needs to be done. So, we continue to watch your work and we'll follow along and see where we go. But we want to make sure that we offer at least to be a part of that discussion still. Cmsr. Altmaier stated that we hear that offer loud and clear and we'll look forward to taking you up on it.

Asm. Cooley stated that I think the discussion process is so important. As a lawyer I've always taken the idea of when I've had to run into a new area of law and draft something up, it actually takes a lot of work to develop an approach to break new ground. And when you do that, my attitude's always been well I like the way I'm doing it wrong, better than the way my colleagues are doing it not all. Someone has to take that first run to put it out there, be willing to engage around it, to let the process of people who have a great variety of viewpoints kind of go back and forth and keep recentering the conversation on what really at the end of the day is the outcome you're trying to achieve. And you know, it's the old saying as iron sharpens iron, so one person sharpens another and that is a foundation of all law. Asm. Cooley thanked the NAIC for that update and that prospect of ongoing discussion and dialogue and looking to engage in an important conversation and ultimately figure out, okay where does the river meet the road on this discussion - where does it intertwine with law, regulation, policy outcomes, such that a consensus can form around?

DISCUSSION ON NEW NAIC LETTER COMMITTEE

Asm. Cooley stated that as we were reminded this morning, the NAIC structure uses its letter committees to delve into subject matters basic to the law and conduct of insurance and the insurance marketplace and there has been long stability over many years in the array of committees that are there. Asm. Cooley asked the NAIC representatives to provide an update regarding the formation of a new letter committee at the NAIC.

Cmsr. Altmaier stated that this is something that we're pretty excited about and I'm going to ask Montana Insurance Commissioner Troy Downing to walk us through this one. Cmsr. Downing stated that this is an exciting topic as we all understand how technology is affecting us and it's going to affect industry and continue to be a growing player here. From what I understand, we've had seven letter committees for decades, and this is going to be our eighth - the H committee - but just because this is new doesn't mean this hasn't been a topic that we haven't been exploring. We've innovation and technology task forces looking into the effects of technology in our industry and what it means, and I think a big part of it is just being prepared because it's coming.

And so, we've had a number of conversations about elevating this to the status of a full letter committee and I'm actually pretty excited about that and as I mentioned the NAIC has already

been heavily involved in a number of workstreams regarding innovation, technology, cyber security and this new initiative is intended to ensure strong coordination, consistency, transparency and visibility regarding this very important work. And just talking about where we're coming from now, our innovation and technology task force, it continues to serve as a forum of important discussions on innovation and the use of data. And given the growing focus on cyber security related issues, the task force has taken on responsibility related to overseeing and coordinating the organization's regulatory related efforts in this area.

In addition to that, our big data and artificial intelligence working group has developed an insurance industry survey to collect information for regulators to get a better understanding of insurers use of big data and artificial intelligence. The results of the survey conducted under the authority of nine NAIC member states will help to inform our work on developing an appropriate framework for overseeing and regulating the space, including input from industry on some of the early best practices in this area including governance. We also at our Spring national meeting created an e-commerce working committee. It was a result of discussions related to requests for information sent to interested parties asking for information related to specific regulatory relief or regulatory accommodations offered by states as a result of the pandemic. Interested parties were recommended to respond whether this was to be continued or made permanent, related to innovation and technology.

Some of the other cyber initiatives we have - two important initiatives in the cyber security area are use of the NAIC's coordination of tabletop exercises to explore cyber incidents response and ongoing coordination with Federal bodies such as Treasury and Homeland Security. And one of things we're looking at is coordinated notification of cyber breaches impacting the insurance industry with financial and market conduct regulators. It's critical that that work will continue as events unfold and will ensure regulators are prepared to address cyber related events impacting the insurance industry. As you see, there's already a large amount of important work in innovation, technology, and cyber security that is either been completed, is underway, or will be getting underway in the very near future. And all of that said, it appears heightening the level of coordination and focus on current and future work streams would benefit all the stakeholders. This effort will also include a more forward-thinking direction to help our members better understand developments in these critical areas and address regulatory issues as appropriate. It'll also provide a better understanding of our efforts in these areas in order to eliminate potentially duplicative or inconsistent efforts across the NAIC as well as help Commissioners be better prepared for what lies ahead given the rapidly developing changes in these areas and I think I put a emphasis on rapidly there. I think there's, at least for me, there's an expectation that we see this increase not being a linear progression.

We feel now is the time to move forward with creating a new standing committee, the innovation, cyber security, and technology committee, our H committee, to provide a forum for regulators to learn and discuss these issues, to monitor developments in these areas that affect the state insurance regulatory framework, and to develop regulatory guidance as appropriate. It'll raise visibility, improve coordination and efficiency of these workstreams, ensure strong understanding of consistency where needed, and oversee cybersecurity workstreams. In terms of next steps, our NAIC members have been discussing draft changes. There's been some comments and the goal is to formally establish this new committee at our next national meeting that's coming up next month in San Diego and I personally am excited about this. I think it's very important as regulators should be talking about this and understanding how to be prepared for what's coming, and understanding the use of data, the use of artificial intelligence, the use of these black boxes, and what's inside of them and understanding how that's going to affect the ability to regulate consumer protection and all the things that we worry about. I personally am very excited about

elevating this because it is some very important work that I think it's important that we all get ahead of and I'm looking forward to getting this launched in December.

Rep. Lehman stated that I'm glad to hear the reaction of this because I do think as our conversation went yesterday on the whole transparency piece and as we talked this morning I think this is kind of on two tracks with this new technology and one is the privacy issue of what is mine and not yours and what can you use and not use. The second piece of that puzzle is then how is it being used. Even if I consent to all this, what is in that black box? And I think it's interesting, it's kind of like we're going to have to use artificial intelligence to judge artificial intelligence. And so it's just who's going to come with the bigger computer so I think as legislators we're going to watch pretty closely to see what the NAIC does in saying what are those parameters that need to be put there because as the policymakers we want to make sure we're responding to good public policy and protecting the consumer. I applaud you on your H Committee drive and I hope you're very successful but again, that's an issue to keep us advised and in the loop on because it's an issue for us as you've seen through this meeting it kind of intertwines to a lot of pieces of the puzzle.

Cmsr. Downing stated that it's going to get complicated and we need to get ahead of this quickly. And as you said, needing artificial intelligence to vet artificial intelligence, it's an interesting quandary that we may have in front of us and it obviously behooves us to start having these conversations seriously about, not just that but like you mentioned the ownership of data, of what's in the black box, and how you vet it. To put it bluntly, these are not simple problems and it is important that we give them their due now and I'm really happy that the NAIC is elevating this to the level of a letter committee so that we really show the importance of getting out and ahead of this.

Oklahoma Insurance Commissioner Glen Mulready stated that I just wanted to echo some of what Cmsr. Downing said and what he started with and that was to assure folks that there's been a lot of work being done at the lower level on these issues. But I think it speaks volumes that we are creating a new letter committee as that's not a small step. We create working groups and task forces but to create a new letter committee, we've have to go in and change our bylaws, and so that just shows I think the weight and the concern on our part on what's happening there and our desire to really dig in to that.

Asm. Cooley stated that it's interesting as he resonates with this general topic as in California I Chair the rules committee. One of the first things I did was establish in one of our policy committees that it would be the stop for all marijuana legislation cause and the goal was actually to have one body where you develop some institutional expertise and they've looked at things and you sort of bulk up some expertise that then serves the whole organization. And so, when I hear the issue of it is emerging and it is complicated, I actually think it's going to be a challenge for the NAIC and probably in even your bylaw drafting because it's not really a clear discreet topic like property & casualty or life & health. I think the edges of it will cross in a lot of those areas. Asm. Cooley asked if the NAIC representatives had any comments about how when you have topics that cross boundaries, how you approach that in the NAIC because I think that'll be a feature here. How the NAIC manages that sort of thing would be interesting for legislators to hear to kind of understand what's coming.

Cmsr. Altmaier stated that we have past examples of a variety of issues that have somewhat crossed over. I referenced earlier we did some work in the auto insurance space that was a collaboration between our C Committee and our D Committee, our Property and Casualty Committee, and our Market Conduct Committee. And they formed sort of a joint sub-committee

that worked on that issue together. Long term care is another example where we formed a collaborative committee between both the E Committee, our Financial Condition Committee and our Health Insurance Committee, that eventually morphed into our Long Term Care Executive Level Task Force.

So, we've already started conversations amongst our letter committee Chairs who are evaluating the work streams that they currently have within their portfolio to determine which ones can be fully shifted over to the new committee, which ones should remain with them and which ones might benefit from some of that collaborative work. So, we've set kind of a blueprint in the past that I think has worked well and can continue to work well. But your point is well taken about how some of these issues are going to overlap and so we've been thoughtful about how to address that.

Asm. Cooley stated that the issue of LTC is not on the agenda but stated that since it was mentioned, does anyone have any comments on that issue as all of us in our states care about LTC. Cmsr. Altmaier stated that we've made some really good progress on this. I jokingly refer to this as, if we had a greatest hits album at the NAIC this would probably be track number one because we've been working on it for so long. But we've got some pretty good work products that are coming out. Notably, we've got a pilot project on a multi-state rate review process. One of the biggest issues is the lack of consistency amongst states in reviewing and approving long term care insurance rates. And so, I think our multi state rate review process is going to go a long way in terms of that. We also have some work that's being done that's getting really close if not already in its final stages with respect to the best practice for reduced benefit options. So, consumers who are weighing whether to accept those rate increases versus looking at their coverage options and determining whether or not they can reduce them and still get the coverage that they need going forward. So, we've got some good work done on that as well and we're continuing to work on the financial side looking at the reserves of the long term care companies and how they continue to develop given the very rapidly changing landscape in terms of some of the new data points coming out of that space. So, there is some really good work being done on that front and we're going to continue to work hard on that issue.

DISCUSSION ON ENHANCED CASH SURRENDER VALUE (ECSV) ENDORSEMENTS

Asm. Cooley stated that in a minute I want to tap Idaho Insurance Director and NAIC President-Elect Dean Cameron on sort of what his vision is for the year ahead. But talking about this issue of analytics and what's the policy, what if you modify the policy, what could be done, how it affects the balance sheet, and how it affects the consumer - this relates to a new topic that has come up recently. Our Immediate Past President, Indiana Senator Travis Holdman, is interested in ECSV endorsements on universal life insurance policies and I'll ask Rep. Lehman if he will jump in on this as it was Sen. Holdman who brought the issue up and raised it with Indiana Insurance Commissioner Amy Beard and I know her team is looking at it.

Rep. Lehman stated that it's an issue that Sen. Holdman brought up and he is on a call right now and so he's deferred to me. But I think the issue really is becoming to the point of we're looking for an answer from the NAIC regarding what we've seen happen is there's a couple life insurance companies that have gone to this ECSV. They'll send out a notice that says, "Hey, for this short period of time, if you want to cash in, we'll give you a much greater settlement." And that goes against what was statutorily passed regarding things like the smoothness requirement that you know all the rates and all the cash values need to be kind of equal. You can't offer something in a period of time because you and I can get the same letter but if I miss it by a day, you get a \$300,000 settlement and I'm still stuck with my \$5,000.

NCOIL passed a life settlement model back in the early 2000s that dealt with the world of viatical settlements and this starts to look a lot more like a viatical settlement. Sen. Holdman did bring this to Commissioner Beard and she did recently start her job so it was quite a bit to put on her plate the first time you're there. But I would like to throw this out to the group as far as is this an issue that you've been made aware of and do you need to take a look at because it does kind of fly against the statutory requirements and the issue of needing to be treated as viatical companies.

Cmsr. Beard stated that she took this issue back to the Department and is still looking into it. I know that everybody on this panel takes this issue very seriously and we've had two discussions on it already. And it's a relatively new issue to all of us and we're looking into it. I know none of us would want to undermine the intent of the legislature. And so, if this is the case we want to make sure that our departments are looking at what was already approved and each one of us is looking into it. Rep. Lehman thanked Cmsr. Beard and stated that he looks forward to hearing from everybody. Cmsr. Altmaier stated that I think a lot of us are viewing this as a relatively new issue so we appreciate Sen. Holdman bringing this to our attention. I think Cmsr. Beard's looking into it in her state and I think a lot of us made phone calls back to our departments to find out what we've done on this front so we're looking into it as well and we look forward to staying engaged and keeping you apprised on how this turns out.

Asm. Cooley stated that as a lawyer who drafts insurance legislation, insurance lawyers can go down deeper, stay down longer, and come up drier than anybody else when it comes to drafting. And that is true generally and it is specifically true of the standard nonforfeiture law, which goes back to the 1940s. And so the two big things that I note is amid all of that verbiage it is the standard nonforfeiture law. The thrust of the statute is that policyholders will have a common experience in general because that is seen to be the sort of the fundamental core of the position of the consumer dealing with the life insurance company. It is the standard on forfeiture law, which is sort of the issue that Sen. Holdman is raising. And, the other issue is just to think back, you know this particular provision came out of the 1980s which comes in on the heels of a time of great inflation in our national economy by the mid-eighties it was starting to improve. But we wrote this provision in law in a time of great financial pressure on individual Americans and it sort of makes sense, it sort of ensures that if they're really up against it and needing and wanting to get a fair deal that the rules support them.

And coming through COVID, we certainly know that there's a great many Americans who've been under great financial pressure. It's weird, because in California we keep seeing our revenue go up because there's high income Californians with this week we're hearing \$26 billion in excess revenue next year that we're going to have to figure out what to do with. But there's a lot of people under financial pressure. So, I do think this is a very important conversation to kind of get our arms around as to are these approaches compliant with the law? Very clearly, there are consumer benefits under the viatical settlement laws that kind of enforced fairness in those transactions. And they are not really within the contemplation of what's happening now. So, your collective insights on this and your staff diving back in these old statutes and trying to understand how it relates to the circumstance we're in today and trying to put our heads together on this is very important.

Cmsr. Mulready stated that it may go without saying, but I think the shared sentiment we have is the old saying, if it walks like a duck kind of thing but if you're going to be doing viatical settlements, that's okay, but you need to be licensed and regulated as such viatical and we have

the consumer protections in there so you can't be operating outside of that. So, I think that's our shared sentiment.

Asm. Cooley stated that sometimes a lot of things sneak up on you and things don't always leap out at us when we look at things. We're all professional in our work but that is true that that happens sometimes. And, my wife was a Church bookkeeper, and our Church got a letter saying that they had to redo their bylaws to add a particular provision to it. And in our little congregation that was very cumbersome to change the bylaws. So, she thought, "Man, if I'm going to tell the Board they have to redo the bylaws, they need to know why because they're going to ask me because it's such a pain." And she asked that question, and two years later the agency came back and says, "Ms. Cooley we've been sending that letter around for ten years and we have actually no legal authority for it." So, a whole lot of people thought everything was fine until somebody asked a very specific question. And then things just started to unravel. So, it's good that you're diving into this.

Asm. Cooley then recognized Sen. Holdman who had returned to the room and asked him if he would like to make any comments on this issue. Sen. Holdman apologized for having to step out and stated not necessarily since he doesn't know what was said and does not want to simply agree with the comments already made because somebody may have said something he doesn't agree with.

DISCUSSION ON NAIC PRIORITIES

Asm. Cooley stated that now is the appropriate to reach out to Dir. Cameron to speak about the great state of Idaho and his long service as a lawmaker and a regulator and what his vision is and priorities are as NAIC President.

Dir. Cameron stated that he is grateful to be here and always appreciates the opportunity to be with NCOIL. I think I've shared with you before that I've had a long history with NCOIL as I used to attend the meetings as a legislator in my 25 years of service in the State Senate in Idaho. And I spent 30 years in the industry. So, I have a great affection and love for the industry and the products which are used to help citizens better themselves and how they take people with financial situations and allow them to improve or people that are having devastating situations and allow them to get through the finances. And I can go through numerous examples and stories where people in my state were impacted by the products that I now get to regulate and I know many of you can as well. It's no accident that a year ago at this time we were meeting and I mentioned for the first time that we were in the process of trying to create a new letter committee, the H Committee. And, with a lot of help from those out here in the audience, NAIC CEO Commissioner Mike Consedine's phone started blowing up with calls about what we were going to do and why. Well, as was announced to you, we look forward to collaborating with you as we move forward in this really uncharted territory, if you will. I have six goals as NAIC President, and I'd like to share those with you today.

And I haven't shared them really outside of this conversation, but I'm going to share them with you today. The first one is improved collaboration with your organization, other associations and the industry. We regulate a wonderful product and we need to collaborate better. That means more phone calls, more discussions, and more issues as it doesn't mean we always have to agree. But when we don't agree, we want to sit around the table and talk about it like adults. We recognize the importance. The second goal is removing or eliminating barriers to access. I believe fundamentally that everybody deserves access to the products that are being made available and they should be able to afford those products and those products should be

available without the barriers. And certainly, some of that gets into the race and insurance aspect but it also crosses the board in many places. We are better suited when we have citizens insured. It's better for our economy, it's better for them, it's better for their families. And so, we look forward to working on those barriers and eliminating them.

Third, I'd like to have a more slimmer, more efficient, more collaborative NAIC. We have hundreds of working groups and task forces. Our staff cannot keep up with all the task forces and working groups. And they haven't told me to say that. But I'm just watching it. When you see a staff member who's the exec on four different working groups, their issues and their abilities are too divided. So, we need an evaluation of how working groups and task forces are created, how they stand and when they end. I'm pushing, and I'll be pushing my new committee chairs, that they be goal oriented and that we work in that direction and that there is a limited scope and a limited timeframe. And when they're work is done, it goes away and we go to the next project. So, there are some governance issues there. One of the side benefits of creating the H Committee is I think we have something like ten different working groups and task forces related to cyber security, data collection, artificial intelligence, etc. By doing the H Committee we'll be eliminating, or consolidating some of those committees and we're going to continue to look for ways to do that as well.

The fourth goal is elimination of duplicative and unnecessary regulations and statutes. And we'll need your help on this one. In Idaho, our Governor has challenged each of the cabinets to try and get rid of unnecessary regulations. Now, I started in this business nearly 40 years ago - can we just admit that the marketplace 40 years ago is not the same as today? And there are statutes and rules that are as old as I am. And we do one thing well, we pile regulation on top of regulation, on top of regulation. So, I think it's time that we review and analyze those regulations and get rid of those that aren't needed. I had the title industry folks say to me as we were getting rid of a 1,000 words, 230 pages, and 25 chapters - "well we don't like that you removed this phrase." I said, "it's in the rule five times. And it's already in statute. How many times do we have to say it before you know that's what we mean?" They got the picture and became a supporter of what we were doing. And so, I'm going to ask the NAIC to do that, and I'm going to ask my fellow Commissioners to look at it. I'm going to help them every way to share our experience, and how we did it and help eliminate that unnecessary regulation which is a little bit contrary to what a regulatory body likely does but that's the direction we're headed.

Number five, I want to increase education and understanding of the products that we regulate. We have too many people that don't take advantage of these products and don't take advantage of the industry and aren't participating. Every one of us and every one of the Commissioners that I get to talk to is struggling to try and have a trained qualified workforce and to retain that talent. We need to figure out ways to bring people into the business. How do we bring people into our departments and allow them to be involved? That'll be a high priority. And then number six, defending and advancing state-based regulation. We know that consumers are better protected when we're regulated at the state level. We know that consumers are better protected when the public policy decisions that you make are made at the state level not at the Federal level.

So, we need to continue to advance our state-based regulation, and we need your help in working on that and defending it. There are too many times where our friend across the Potomac have a brighter idea and want to shove it down everybody's throat and we want to defend against that and would ask for your collaboration whether we're talking with FIO, Treasury, or whomever. We want to work together with you on it and we want you to feel comfortable in reaching out to me or any of the other Commissioners and trying to help us

advance this agenda. I would also like to say one other thing. This is Cmsr. Altmaier's year and he's done a great job and I admire him and support him and I don't want to overstep and step in front of him. We want to acknowledge his accomplishments and we'll look forward to having my time as we advance.

Asm. Cooley stated that I think as lawmakers, the whole fundamental concept is an idea gets worked out in one house but then it has to go to the second house and get worked out. And if it's done that, now it has some staying power to go down to the Governor and hold its own. It's been well vetted. And I actually think that model probably applies to the joint work of legislators and insurance regulators, vis-a-vis the Federal climate. How do we contend for state based regulation is something that's responsive to the needs of all Americans by being responsible to the localities that Americans live in, their differences in those marketplaces. And it's sort of the electricity model, you need both plugs to make it work. I do think that the NAIC certainly has strengths and an expertise as an organization and not just in the organization because you go to people in the marketplace, or in academia or other settings that you feel you've sort of tested their quality and you feel you can bring them into the conversation to illuminate things. So, when you have those sorts of strengths going, I think it's long term, kind of working together in partnership is the best way to kind of assert and affirm state based regulation.

Asm. Cooley noted that Dir. Cameron got into some governance issues. Regarding, elimination of unnecessary, duplicative laws or regulations, time does march on. We were discussing at breakfast that California in 1988 had Prop 103, which was controversial at the time, but passed overwhelmingly but is very much time bound in the area of auto insurance as what are allowed rating factors? So, with modern conversation about rating factors, if it didn't fit Prop 103, it's not allowed in California. And so, this great innovation ends up becoming a barrier to innovation and in California we certainly think we are friendly to innovation and increased education, and understanding of the insurance products themselves and defending and advancing state based regulations.

Sen. Jason Rapert (AR), NCOIL Immediate Past President, stated he would like to provide accolades to all of the Commissioners participating, and also to NAIC CEO Cmsr. Consedine. When I first got here to NCOIL in 2011 there were several sessions where it seemed like there was great tension and a great divide. And that persisted and I think through the leadership of my predecessors and the change that we've had at NCOIL, I believe that there's been tremendous progress that's been made. And I just want to make sure that you know that. Now we are dominated by how we can try to work better together and have more collaboration. So it's good to see what has happened over the last few years and I'm very happy to hear you, Dir. Cameron, and I appreciate your work. I won't go into all the accolades of the pharmacy benefit manager (PBM) regulations but I thank you for that and you all have done great work but I really am happy to see that we're at a point now where I think that the NCOIL-NAIC relationship is probably as good a relationship as I've seen in ten years.

Asm. Cooley stated that sitting in this room crowded with people, our biggest ever meeting, good things are happening in NCOIL and I think a lot gets contributed to we made a choice during COVID to keep Rep. Lehman as President so we thank you Rep. Lehman for your leadership. You're a part of the good things happening here and a part of the relationship with our regulators.

Rep. Meskers stated that I think the cooperation between the groups is pretty impressive and the quality and intellectual effort we're bringing to the table is important. I think the NAIC's focus on access is a very laudable goal but as I sit with my legislature and my constituents, I think the elephant in the room is the 7-11% compounding, particularly in the healthcare industry. So,

when we talk about regulation and deregulation, I think the access to affordable healthcare whether it be the hospital bills, the pharmaceutical bills, those are the elephants in the room. And I guess one of the - I don't know if it's the appropriate role - but the question is how do we empower the insurance companies at the table with the providers of healthcare to negotiate the prices to be able to get some cost containment. Because I worry that 7-11% a year is just that compounding will make healthcare insurance unaffordable over time. And I'm not sure how we address that issue. I mean, we've seen the beginning of negotiations at the Federal level on pharmaceuticals and we went from a fairly aggressive price cap to one now that's coming out in the bills which has got a ten or 12 or 20 year period of adjustment on certain drugs. So, I'm not sure how the NAIC feels about the affordability question on healthcare.

Cmsr. Altmaier stated that I'll kick it off a little bit and then quickly defer to whoever else would like to make comments, but I think speaking on behalf of my state's experience, we look at the increases in the health insurance rates and a lot of that is driven by medical trends and just the fact that the cost of healthcare generally is going up. And since insurance is how people finance their healthcare it's a byproduct of that health insurance goes up as well. And so that complicates the equation because that involves a significantly larger number of stakeholders in terms of who needs to be at the table when addressing the cost of healthcare. And so that is a very important conversation, the affordability for us is always a really tough nut to crack because we certainly want insurance to be affordable for everyone. But at the same time, we've got to balance that with the fact that we need to keep our markets buyable and sustainable. And so, sometimes the rates have to accommodate the increased costs of some of these things. So, you've touched on a seriously important issue. And I think you're two for two on that so far this afternoon, so we'll spend a lot of time working on this and collaborating with folks on best ways to address this for our consumers. But I think you touched on the PBM work and things of that nature - I think those are good examples of things that we've looked at in the past that can help address the cost issues. So, we'll continue to do that as we look forward to this.

Dir. Cameron stated that I'll share some thoughts with you and some of them everybody may not agree with but nonetheless I'll share my perspective. We've been fortunate in our state because we've been out on the forefront of elimination of unnecessary regulation which has helped. We have strong competition in our state. We started with four carriers now we're up to six, with a seventh and eighth and ninth in the wings looking to come into our state and market. It starts with trying to figure out ways to attract the young and healthy back into the marketplace because under the current rules, under the current Federal guidelines and provisions, many of those folks are being forced out of the marketplace and forced to either go uninsured or to go elsewhere. And so, from our state we've had three years now of no increase or some side of decrease. We had a decrease this last year of about 5% because we've been trying to do some of those approaches and trying to find places for the young and healthy to be able to participate in the insurance marketplace. In my mind that fits within the barriers of eliminating barriers to access to coverage. We have a high Hispanic population in my state, and they don't take advantage of health insurance like they should. So, we're working on ways to make it more friendly if you will, and to speak to them in a manner that they can address.

So, there are things that can be done at the state level and I think it starts with looking at your regulations, looking at what is causing the rates to increase. I would say that I do think, and I'm surprised it's actually not on the agenda because every state is scrambling to figure out how they're going to deal with it, surprise balance billing is important. There are some components with the Federal rules that I think will actually be very helpful in this arena and actually will lead to better networks and more providers accessing networks. I think there's an impetus that they are not going to want to jump through all the hoops that will be there if they're not part of a network.

So, I think that there's some help coming in that direction although I don't think it was necessarily intended in that way. And while I'm on surprise balance billing, I encourage you to work with your Commissioner and figure out how best to deal with the surprise balance billing laws and provisions that are coming. I know that CMS is working really hard to have the states regulate it but most of us don't have the regulatory authority. So, we're having to sort of boot strap the authority to be able to work with hospitals and providers at the same time we have the authority with the carriers.

DISCUSSION ON NEW NAIC IMPROPER MARKETING OF HEALTH INSURANCE (D) WORKING GROUP

Asm. Cooley stated that in this general area of health insurance, a recent development at the NAIC is the working group on improper health marketing. Asm. Cooley asked the NAIC representatives for brief comments as to what was behind the formation of the working group.

Cmsr. Mulready stated that we do have work happening there – it started at the end of last year of just an ad hoc group coming together such as anti-fraud folks and consumer affairs folks. In this situation we've got the Health Committee, the B Committee, and then Market Regulation, the D Committee, because of the crossover issues which we previously discussed. From that they formed a more formal group and they will facilitate and engage in discussion about the marketing plans that are improper. The goal is to have participation of regulators at the state and federal level, and to provide assistance, guidance and knowledge regarding these activities.

Regulators from all areas of expertise, health, market conduct, fraud and legal divisions will be involved. So, we've established this new working group and the Chair is Martin Swanson, who's a Deputy Director in Nebraska and Frank Pile who's a Special Deputy from Delaware. And the Delaware Commissioners, the Chair of the anti-fraud task force so I know they've been doing a lot of work. I've heard the reference of sometimes it's like playing whack-a-mole with some of these folks out doing things and that can be the case here. In order to keep this short, they have had two public sessions and most recently at the Kansas City Insurance Summit but that work is continuing. And one other thing I would mention that they're looking into that's a little bit sticky for us in trying to stay in your lane and not have mission creep that's constantly there is the lead generators that are a big part of that. So, they're creating a database that to be shared back and forth and so there is lots of work happening on that.

ANY OTHER BUSINESS

Asm Cooley stated that time is almost up and I want to just remark upon we know that the work of your agencies has persevered during COVID. The work doesn't stop and it's been a very difficult time to get things done. We can all remark on Zoom and those sorts of things but just developing new routines to persist in a very important public work in the middle of a pandemic is quite exceptional. So, I thank you all for your leadership and it does allow me to reflect upon and acknowledge our own President, Rep. Lehman, for his leadership - what an organizational banana peel to step on, COVID, that suddenly you're off into new things and persevering despite all the impediments to success and productivity. Not to mention the legendary phone calls and text messages from NCOIL staff. Asm. Cooley offered Rep. Lehman the opportunity to provide closing comments in light of his great leadership.

Rep. Lehman stated that to sit in this room and see everybody here is great. When we left Austin, TX in 2019 we thought this is what we would see every year going forward and then COVID hit. It's been great to see how everyone stepped up and with the large panel we have

here today, it tells me that we're back and it tells me that everybody's in the same place now, saying we want to come and do the work of the people. So, I'm really looking forward to the future and handing things over to Asm. Cooley. We're in a good place and I know you'll take it to the next level.

ADJOURNMENT

Hearing no further business, upon a motion made by Rep. Ferguson and seconded by Sen. Hackett, the Committee adjourned at 12:00 p.m.