

# MEMORANDUM

**TO:** Joe Bieniek, NAIC  
**FROM:** Lee Barclay  
**DATE:** July 29, 2010  
**SUBJECT:** Title Statistical Plan Implementation Issues

As the Title Statistical Plan (C) Working Group prepares to make a presentation to the Title Insurance (C) Task Force at the 2010 Summer National Meeting in Seattle, I would like to call attention to some implementation issues that might be raised in that presentation. These comments are prompted, in part, by my experience chairing NAIC groups that have just spent several years developing a model law and a guideline for the reporting of data on closed medical professional liability claims.

1. Although there are significant differences in state laws on title insurance, to the extent that statistical reporting requirements can be uniform among the states, both the efficiency of the data reporting and the quality of the data will be improved.
2. The Task Force needs to recognize that in the context of title insurance the term “statistical plan” is used in a much different context than it is in property and casualty insurance. P&C insurers report their data to statistical agents, which aggregate the data and send standardized statistical reports to the states under the provisions of the NAIC *Statistical Handbook*. And in many states this system still has a specific statutory foundation dating back to the All-Industry Bills of 1947. Data reporting by title agents to state insurance departments is a whole different animal.
3. The NAIC’s 2009 survey of title insurance laws found that 35 states have the authority to collect data from title insurance agents. Once the data elements of a title statistical plan have been adopted, it may be necessary to ask the states a more precise question: Do you have the authority to collect exactly the data that are required by this statistical plan? And if not, would you need a statute or a regulation in order to be able to implement this statistical plan in your state? The task force will need this information in order to determine whether a model law or model regulation is necessary.
4. Even if the Task Force decides not develop a model law or regulation, it would be very helpful to adopt some best practices for implementing the statistical plan. How will data be submitted (on paper, in an Excel file attached to an e-mail, through an on-line reporting site, etc.)? When must data be submitted? How will the states ensure that the data are accurate? What will the states do with the data? How might the data be analyzed and used? What state insurance department resources are required for all this?

5. The Task Force should consider whether it is possible to have a centralized data collection point for all participating states. It is natural to think first of the NAIC, but perhaps there is another organization that would be interested in doing this. And if there is to be centralized data collection, what will it cost and how will it be paid for?
6. Confidentiality of the data will always be an issue of great concern to the industry. There is enough variation in state public disclosure laws that it is unlikely that states will be able to implement the title statistical plan uniformly in this respect.