NAIC National Association of Insurance Commissioners & The Center for Insurance Policy and Research
CIPR newsletter

Important Issues for Consumers, Insurers and Insurance Regulators

By Julie Mix McPeak, NAIC President and Tennessee Commissioner of Commerce and Insurance

I am looking forward to 2018 with mixed feelings. It is a great honor to have been selected to serve as President of the National Association of Insurance Commissioners (NAIC). I am in awe of the power of this position. I am equally in awe of the challenges that we face and all that must be accomplished for this to be a truly successful year. With the support of NAIC members and their teams, the industry, the consumers we all serve and the NAIC support staff, we can accomplish many positive things this year. So I write this with the purpose of sharing my thoughts on some very important issues we will face together in 2018 and beyond.

The challenges we face are many and our resources are precious. Let me start with noting some recent accomplishments that will help shape our future:

- Work began on development of a strategic plan for the NAIC members to provide guidance and direction to NAIC staff. The plan was drafted and vetted during 2017 and was adopted on Feb. 3, 2018. It is a three-year plan covering 2018-2020. The title of *State Ahead* was chosen to reflect the forward-looking nature of the plan. *State Ahead* will be discussed in more detail in the section of this article called *Key Initiatives for 2018*.

- When natural disasters occur, it is time for the insurance industry and its regulators to step up. In 2017, insurers and consumers faced heartbreaking and record-setting challenges as insured losses from flooding, hurricanes and massive wildfires topped $134 billion. In a perfect world, one would hope every family and business would have the foresight to fully insure their homes and businesses against the perils they could face.

- The reality is many carried no insurance or purchased insufficient limits, particularly for the flood peril. Insurers sent in their catastrophe teams to help their policyholders at their greatest time of need. State insurance regulators banded together to provide mutual assistance to each other during this difficult time. I am very proud of those efforts and the caring nature of the dedicated state employees who volunteered when their skills and assistance was sorely needed. Support continues for Puerto Rico and the U.S. Virgin Islands as they recover from the deadly hurricanes.

- On March 9, 2017, then NAIC President and Wisconsin Insurance Commissioner Ted Nickel announced the appointment of an Innovation and Technology (EX) Task Force and asked it to focus on cybersecurity, Big Data and helping regulators stay in touch with new and innovative products and services being offered by start-ups and incumbent insurers.

- On May 16, 2017, the NAIC hosted the 11th annual International Insurance Forum bringing together more than 300 people from 20 jurisdictions to discuss global insurance markets and regulation. Topics covered included reinsurance, international capital standards and systemic risk.

- After insurance regulators expressed concerns about the U.S.-EU Covered Agreement, the U.S. Treasury's Federal Insurance Office (FIO) and the United States Trade Representative (USTR) worked with us and representatives from the European Union to clarify the agreement. Among the important improvements were recognition of the U.S. state-based regulatory system as sufficient to meet "equivalency" tests and agreeing to a timeframe for development of U.S. group capital standards.

- On October 11, 2017, the NAIC and the Stanford Cyber Initiative hosted a joint cybersecurity forum providing insight into the current cyber-threat landscape and the role of insurance in managing and mitigating these risks. An inspirational keynote speech from Richard A. Clarke, former U.S. National Coordinator for Security, Infrastructure Protection and Counter-Terrorism, provided attendees with some thought-provoking insights and suggestions for action.

- On October 24, 2017 we adopted the NAIC *Insurance Data Security Model Law* (#668) paving the way for its introduction in state legislatures. The model creates a common regulatory framework for licensed entities to responsibly manage their cybersecurity exposure. It requires regulated entities to maintain a risk-based information security program to assure the public sensitive personal information is being made as secure as possible.

- On December 1, 2017, the NAIC hosted the Fourth Annual Asia-Pacific Forum offering an opportunity for regulators and industry representatives to discuss common issues facing the U.S. and the Asia-Pacific region.

(Continued on page 3)

KEY INITIATIVES FOR 2018

◆ STATE AHEAD STRATEGIC PLAN

Last year, NAIC leadership embarked on a mission to develop a comprehensive strategic plan to guide the efforts of the organization over the next few years. I am happy to report the *NAIC Strategic Plan: State Ahead* was adopted by the NAIC members on Feb. 3, 2018. It covers the years 2018 to 2020. *State Ahead* provides a blueprint for the NAIC's future. I would be pleased to provide you with an overview of *State Ahead* in this article. I do encourage you to visit http://www.naic.org/state_ahead.htm to read the entire plan.

State Ahead relies on three foundational pillars: data, technology and talent. The NAIC hopes to expand upon its world class data infrastructure to support the state insurance regulators needs in the coming years. Data is useless unless it is converted to meaningful and insightful information. That leads to the second pillar—technology. We must evolve to use modern technology for collection, storing and analyzing the data we receive. Finally, the NAIC and the states must continue to employ top-notch talent to gather the data and turn it into useful information.

State Ahead is organized around three themes. Each theme is supported by one or more goals providing details on how the theme will be addressed to execute the plan.

The three themes should be no surprise to longtime followers of the NAIC. They are:

1. Safe, Solvent and Stable Markets;
2. Consumer Protection and Education; and
3. Superior Member Services and Resources.

The goals underpinning each theme might prove more instructive.

Under *Safe, Solvent and Stable Markets* is the goal to "provide insurance regulators with the data, training, and tools required to support a collaborative regulatory environment that fosters reliable and affordable insurance products." There are two main objectives being considered to achieve this goal:

- To optimize data and information for regulator-focused analytics, and
- To evaluate regulatory opportunities arising from macroprudential surveillance.

The plan calls for modernizing the way data is collected and organized to make it more consumable for state insurance regulators, NAIC staff, the industry and consumers. This will empower users with self-service business intelligence tools to give greater insight into insurer financial condition and market practices. The second objective relates to analysis of how the insurance sector is impacted by broader financial markets, common risk exposures and the economy. Together these objectives should lead us to better organization and analytical reporting on the financial health of the insurance industry.

Some of the work product expected includes:

- Creation of an enterprise data strategy and analytics data warehouse;
- Implementation of business intelligence tools with self-service capabilities;
- Exploration of the use of advanced cloud computing capabilities;
- Application of business intelligence tools to NAIC and external data to improve macroprudential surveillance capabilities; and
- Enhanced support for the NAIC Financial Stability (EX) Task Force.

The second theme is *Consumer Protection and Education*. The goal underlying this theme is to "ensure consumer protection keeps pace with changes in the marketplace and consumers have the information and education needed for informed decision-making." Here are three objectives:

- To optimize use of market data and regulatory processes to enhance consumer protections;
- To provide effective and accessible consumer education and financial literacy tools; and
- To position the NAIC and its members as thought leaders in insurance regulatory innovation.

Consumers expect insurers to deal with them in ways comparable to their experience with other products and services. They increasingly want to transact business over the Internet or their smartphones, and they expect prompt service. State insurance regulators want to work with insurers and innovators to ensure they are mindful of consumer protection obligations. Economists tell us competition works best when there is an informed buyer and seller. To improve transparency in insurance markets we need to make sure consumers are empowered by being financially literate and educated on their insurance and risk management needs.

Some of the work product expected includes:

- Improvements to the Market Conduct Annual Statement (MCAS) filing process for insurers;

(Continued on page 4)

- Providing regulators with a solid, secure, cloud-based platform for storage and analysis of MCAS data;
- Implementing business intelligence tools with self-service capabilities for market regulators;
- Combining multiple data sources to enhance market regulatory oversight and insight to protect consumers;
- Creating an enterprise market data strategy and analytics data warehouse;
- Rebuilding the NAIC Consumer Information Source (CIS) to provide an improved consumer-driven experience and enhanced educational materials;
- Developing the NAIC InsureU website into a leading-edge resource for consumer education on insurance related-related topics;
- Engaging regulators in educational events and forums to stay abreast of rapidly evolving insurance products and services;
- Convening an Autonomous Vehicle Insurance Forum to discuss insurance regulatory issues with automakers, motor vehicle administrators, the U.S. Department of Transportation, safety advocates and others;
- Using the NAIC Center for Insurance Policy & Research (CIPR) to enhance focus on insurance regulatory innovation; and
- Creating a Cybersecurity Insurance Institute.

The third major theme is *Superior Members Services and Resources*. There are two goals underlying the theme:

- Provide optimal services to support state insurance regulators, and equip them with the necessary talent and resources; and
- Optimize the efficiency and effectiveness of the NAIC structure to focus on member priorities and maximize member engagement.

Some of the work product expected includes:

- Outreach by NAIC staff to all members to identify training needs;
- Keeping cybersecurity as a top priority and continuing to build out the NAIC cybersecurity framework;
- Improvements to the user experience of NAIC technology services;
- Transformation of platform and development practices;
- Fostering a culture for innovation and continuous improvement;
- Addressing NAIC and state regulator talent and resource needs;
- Conducting a review of the committee structure and reducing the number of active groups to better focus on priorities; and
- Developing appropriate governance factors to ensure a balance between effective engagement and efficiency.

As you can see *State Ahead* is forward looking and innovative. It outlines broad themes, objectives and goals to pave the way toward our future success. I am proud of the efforts and dedication of our members to implement this strategic plan as we move forward.

◆ Fiduciary Requirements and Suitability

Ensuring consumers' retirement plans are safe and secure is an important duty for regulators. The interplay between state and federal regulators over this subject matter is as complex as it is often misunderstood. The U.S. Department of Labor (DOL), the U.S. Securities and Exchange Commission (SEC) and the Financial Industry Regulatory Authority (FINRA) each maintain regulations on standards of conduct for investment advice that were, for decades, in relative harmony with state insurance and securities laws. However, once the DOL launched its fiduciary rule in April 2016, standards were no longer consistent.

Remember that in 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act gave the SEC, as the primary regulator of the securities industry, discretionary authority to establish a uniform fiduciary duty for investment advice. Once it was clear that the SEC commissioners could not agree on specific language, the DOL went forward with its own rule apart from the Dodd-Frank mandate, for ERISA retirement plans such as 401(k), defined benefit, profit sharing, ERISA 403(b) and other 401(a) plans.

The rule also covers all plans otherwise included in Internal Revenue Code Section 4975, such as: traditional IRA accounts and annuities, Roth IRAs, Archer medical savings accounts, health savings accounts, Coverdell education savings accounts, simplified employee retirement (SEP) IRAs, and all 401(a) plans, including church plans, governmental plans and one-participant 401(k) plans. Now, different standards of conduct exist for accounts subject to the DOL rule and those that are not. While the DOL follows a fiduciary standard, state insurance regulators and FINRA have long required those who sell annuities to comply with a suitability standard of care.

The DOL rule expands the "investment advice fiduciary" definition under ERISA to include any professional making a recommendation or solicitation—and not simply giving ongoing advice. Under the rule, the scope of who is considered a fiduciary to ERISA retirement plans and IRAs includes a broader set of insurance agents, insurance brokers, and

(Continued on page 5)

insurers. Previously, apart from ERISA, the Investment Advisers Act of 1940 imposed a fiduciary duty only on advisors who were charging a fee for service (either hourly or as a percentage of account holdings) on retirement plans.

As part of the rulemaking, the NAIC submitted a comment letter in July 2015 and met with DOL officials to underscore the importance of operationalizing a number of the proposed rule provisions and seeking clarity in the rule to limit the potential for unintended consequences, confusion or litigation. Most sales of insurance and annuity products to ERISA plans fall in the Prohibited Transaction Exemption (PTE 84-24).

Under the DOL final rule, PTE 84-24 would only apply to advisors selling non-annuity insurance contracts and annuities that satisfy the DOL's definition of a "Fixed Rate Annuity Contract." Advisors selling variable annuities and fixed indexed annuities would need to satisfy the conditions of the Best Interest Contract (BIC) Exemption rather than PTE 84-24 they were previously allowed to rely upon. The BIC exemption requires advisers to adhere to impartial conduct standards to give advice in the best interest of the client, receive no more than reasonable compensation, and make appropriate disclosures, among other requirements.

The issuance of the DOL rule set off numerous efforts to revise or repeal it in Congress and in the courts. The first phase of implementation of the DOL Rule was scheduled to apply in April 2017. However, the Trump administration issued a presidential memorandum on February 3, 2017, ordering the DOL to reevaluate the rule. The memo asked the Labor Department to study whether the fiduciary rule would reduce access to certain retirement offerings, disrupt the retirement advice industry in a way that may adversely affect investors or retirees or would be likely to increase litigation and the prices investors pay to access retirement services.

The NAIC weighed in with comments in August 2017 to a DOL Request for Information which sought input on the delay and questions on the potential effects of the rule. The NAIC discussed the current regulatory oversight for annuity products and sales and encouraged the DOL to coordinate with state insurance regulators as it considers changes to the fiduciary rule. While the DOL has shared jurisdiction with the states over insurance products sold through ERISA plans, states have regulatory responsibilities with respect to the entire market for such products, including disclosure requirements, professional standards of conduct for agents, and supervisory controls.

A robust system already exists to provide policyholder protections through solvency and market conduct regulations designed to ensure that life insurance and annuity customers are treated fairly. In addition, the NAIC also submitted comments to the SEC in August 2017 on the issue. Because some sales distribution of insurance and retirement products is shared with investment advisers, securities agents and dealers, an appropriate amount of regulatory consistency and harmony with the SEC and FINRA is necessary. The NAIC emphasized the need to work in a coordinated fashion with them as well.

The DOL has now delayed the enforcement mechanisms for the entire fiduciary duty regulation and all the remaining provisions including those pertaining to PTE 84-24 to July 1, 2019. During the transition period, the DOL said it "will not pursue claims against fiduciaries working diligently and in good faith to comply" with the impartial conduct standards that are already in place. The DOL said it needs the extra time to conduct a reassessment of the rule's impact on retirement advice that was ordered by the presidential memo.

Looking forward in 2018, the NAIC Annuity Suitability (A) Working Group is considering updates to the *Suitability in Annuity Transactions Model Regulation* (#275). Our goal remains to provide robust consumer protection, while limiting undue burdens on insurance producers, financial advisors, and the companies they represent. NAIC members have also been engaged on this issue with both the SEC and DOL to seek as much consistency and compatibility as possible as we collectively look to update our respective regulations.

◆ CYBERSECURITY INITIATIVES

Cybersecurity is perhaps the most important topic for the insurance sector today. It is incumbent on insurers and insurance producers to protect the highly sensitive consumer financial and health information collected as part of the underwriting process and for evaluation and payment of insurance claims. This Personally Identifiable Information (PII) is entrusted to the industry by the public. The public has the right to demand it be protected to the maximum extent possible.

The NAIC has completed several cybersecurity activities in recent years. Late last year a significant accomplishment was the adoption of the *Insurance Data Security Model Law*. State insurance regulators also participated in a joint forum with Stanford University on cybersecurity activities. In this section I will discuss my views on the Model Law, the possibility of developing a Cybersecurity Institute and activities related to anti-fraud efforts.

(Continued on page 6)

Implementation of Insurance Data Security Model Law: In October 2017, the *Insurance Data Security Model Law* was adopted. The Model Law requires insurers and other entities licensed by state insurance departments to develop, implement, and maintain an information security program; investigate any cybersecurity events; and notify the state insurance commissioner of such events. States are now working to introduce the Model Law in their legislatures.

The state regulatory system allows us to be close to the people and businesses operating in our jurisdictions and adjust laws and regulations to protect insurance consumers within our boundaries. I believe cybersecurity is an area where we need to recognize diversity is not the answer. A data breach is a data breach regardless of where it happens. As a result, instead of diversity, cybersecurity matters call for a uniform solution. I am convinced we have a workable uniform solution for the insurance sector with the *Insurance Data Security Model Law*.

In an extraordinary step forward, the development of the Model Law was recognized by the U.S. Department of the Treasury in its October 2017 report titled, *A Financial System That Creates Economic Opportunities: Asset Management and Insurance*. In the report, the Treasury states: "Treasury recommends prompt adoption of the NAIC *Insurance Data Security Model Law* by the states. Treasury further recommends that that if adoption and implementation of the *Insurance Data Security Model Law* by the states do not result in uniform data security regulations within five years, Congress pass a law setting forth requirements for insurer data security, but leaving supervision and enforcement with state insurance regulators."[1]

Creation of Cybersecurity Institute: In a remarkable speech given at the NAIC/Stanford University Joint Cybersecurity forum on October 11, 2017, Richard A. Clarke, a former U.S. National Coordinator for Security, Infrastructure Protection and Counter-Terrorism, recommended a cybersecurity institute be formed in the insurance sector.

Creation of a cybersecurity insurance institute would be quite an undertaking. Among the things it might include are:

- Collection and cataloging of data on cyber breaches;
- Studying cybersecurity breach events;
- Providing information on cyber risk mitigation;
- Serving as the "Underwriters Laboratory" for cyber risks;
- Development of an educational component encompassing the development of educational and instructional materials to provide students with a comprehensive education on cybersecurity matters;
- Creation of a multilevel set of certifications granted for successful completion of educational courses;
- Provision of high quality continuing education for those with certifications;
- Creation of a Federated Digital Identity to replace current use of PII for identity verification purposes, making PII valueless to hackers; and
- A process for continuous tracking of cybersecurity risks.

I am hopeful we can consider the creation of a cybersecurity insurance institute this year and come to some agreement on its scope. The scope might include some of the items listed above and other innovations and ideas not yet contemplated.

Development of Anti-Fraud Depository: One of my concerns is the ease with which people with bad motives can take advantage of unsuspecting consumers. While the cybersecurity insurance institute would concentrate on those who perpetrate fraud by identity theft, ransomware and other electronic means, it might also make sense for us to use a suspected/confirmed fraud database to also collect information on other types of fraud committed by more traditional means.

Too often it is easy for an unscrupulous person to prey on the public. Insurance fraud comes in many forms—perpetrated by many different types of individuals. Fraud can arise when the people stage fake accidents for financial gain or when a person colludes to inflate the value of a claim. While members of the public can defraud insurers, fraud is a two-way street. An insurer might be so tight-fisted during the claim settlement process that an individual does not receive what they paid for. Further, questionable individuals might defraud consumers by collecting premiums and failing to remit them to the insurance underwriter or by simply pretending to be a licensed insurance producer and pocketing the money.

In what it states as a conservative estimate, the Coalition Against Insurance Fraud estimates over $80 billion is lost each year.[2] It further estimates roughly 10% of property and casualty insurance losses are fraudulent.[3] Clearly the cost of fraud is passed to honest consumers who pay more than

(Continued on page 7)

[1] U.S. Department of the Treasury. *A Financial System That Creates Economic Opportunities: Asset Management and Insurance*. October 2017.
[2] http://www.insurancefraud.org/statistics.htm. Accessed on January 18, 2018.
[3] Ibid.

they should for insurance products. It is incumbent on state insurance regulators to take action to prevent insurance fraud. Active monitoring is a helpful first step.

◆ CONSUMER ENGAGEMENT

Insurance regulators are statutorily charged with consumer advocacy. Yet we are not the average consumer. For that reason alone, seeking out advice and council from average citizens is important. State insurance laws exist to protect consumers. The insurance commissioner's office is charged with enforcement of the insurance laws. It is important for state insurance regulators to know if what they are doing is effective.

This year we are committed to ensuring consumer protection measures keep pace with the rapid changes in the marketplace. Further, we must be sure consumers are empowered with the information and education they need to make informed decisions about the insurance products they are buying.

Technological evolution has been the driving force around changes in the way the public chooses to interact with insurers. Business models are changing in response to the on-demand world. People expect to be able to do business with insurers in the same on-the-go manner they do with other segments of the economy. They want what they want and they want it now. Insurers and insurance producers are beginning to react to this change. All the while, there will be consumers who do not want to use modern technology and prefer to use more traditional methods. Insurers have to serve both sectors of the market.

Yet our laws and regulations, while well intended in another time, might hinder progress. For example, a law devised to protect consumers by requiring 10-30 days advance notice of cancellation was needed when the notices were delivered by the U.S. Post Office. This assured the consumer would receive knowledge of a cancellation in time to secure replacement coverage before the policy was no longer effective. We may need to revisit this provision and others to see if the laws allow for consumers and insurers to transact business by electronic means if they choose.

My pledge to you for 2018 is to begin the process of looking at our consumer protection framework to see if modernization of the NAIC model laws is needed to reflect the changing world we live in. To accomplish the goal we may receive unanticipated help from social media. The collective voice of insurance consumers can be a powerful agent of change.

◆ INNOVATION AND TECHNOLOGY

Our world is rapidly changing. Change is being driven by consumer demand and expectations. People expect insurers and insurance producers to meet their expectations in the same ways they have experienced with other businesses. They want to do business by electronic means at the time of their choosing. As noted earlier, insurers and producers are starting to make changes to meet these changing consumer expectations.

Consumers are voicing their concerns through social media. It is likely consumers will demand insurers follow higher standards than regulators could ever imagine imposing upon them. One only needs to look at recent use of social media to find examples of businesses that got it wrong. Take for instance United Airlines where a video of armed officers dragging a passenger off a plane resulted in public outcry. A Twitter hashtag #BoycottUnited was used over 3 million times. This led to a serious and sudden drop in the value of United's stock.

State insurance regulators need to be informed about innovations being implemented by start-ups and incumbent insurance operations. State insurance regulators need to support innovation, but should not end up picking winners and losers as things evolve. To learn about innovations and discuss public policy issues related to them, the NAIC created the Innovation and Technology (EX) Task Force last year.

This group will continue in 2018 and has been asked to provide a forum for discussion of innovation and technology developments in the insurance sector. They have the latitude to develop regulatory guidance, best practices or draft white papers. They have a specific charge to study autonomous vehicles and the impact they will have on the auto insurance markets. One should look at the Task Force as the hub of activity for anything related to innovation in the insurance sector.

It is also incumbent on state insurance regulators to know what data is being used by insurers and understand how the data flows into insurer models. The development of credit-based insurance scores was perhaps the first example of using non-traditional data to assess insurance risk. Now insurers are exploring the use of Big Data and Artificial Intelligence (AI) to uncover previously unknown relationships related to risk. They use this for pricing, underwriting and claim settlement.

(Continued on page 8)

The NAIC is rapidly changing the way it does business. There are ongoing and planned efforts to rewrite and move some of the NAIC databases to the Cloud. Applying machine learning and human interpretation, and the move to Cloud-based data collection and storage, the NAIC is building the tools to enhance our ability to transform data into high-quality information, useful for state insurance regulators and insurers. The *State Ahead* strategic plan contains many details about what is planned from 2018 to 2020.

Among the things within the purview of the Task Force are:

- Discussion about the concept of a regulatory sandbox;
- Meetings with accelerators and others supporting start-up innovators;
- Meetings with actual innovators to discuss the innovation and identify any regulatory issues before a product or process is rolled out to the public;
- Attendance and participation in national forums discussing and showcasing innovations;
- Identifying the impact of the gradual introduction of the autonomous vehicle and evaluating the need to change current laws and regulations to keep consumers first;
- Listening to reports from its two Working Groups; The Big Data Working Group and the Speed to Market Working Group; and
- Addressing issues related to cybersecurity and implementation of the *Insurance Data Security Model Law*.

As you can see, innovation and technology will be front and center at many NAIC events.

◆ HEALTHCARE AND HEALTH INSURANCE CHALLENGES

It is clear to everyone the U.S. system for delivery of healthcare is not working optimally for all those seeking care. According to the Centers for Disease Control and Prevention (CDC), the per capita national health expenditures are $9,990.[4] Further, the total national health care expenditures were $3.2 trillion.[5] The total national healthcare expenditures represent 17.8% of the Gross Domestic Product.[6] These costs are clearly unsustainable for us as a nation.

Many misperceive the solution lies in "fixing" health insurance. However, health insurance is simply the canary in the coal mine. It exposes systemic costs by shining a light on them when insurance renewals arrive. The insurance mechanism simply passes along the underlying healthcare costs. It is in these underlying costs where solutions lie.

There are a number of significant sources of healthcare. Some involve private insurance while others involve a variety of government programs, both state and federal. If we listen to news reports, it is easy to misperceive the Affordable Care Act (Obamacare) is where most Americans receive health insurance coverage. On the contrary, most people still receive health insurance benefits from an employer-based plan. For those over age 65, Medicare provides most coverage. For the economically disadvantaged there is Medicaid and several flavors of assistance for specific groups such as State Children's Health Insurance Programs (SCHIP/CHIP). The CDC has extensive statistics available on who is covered and the source of the coverage.[7]

The CDC found there were roughly 28.2 million people under age 65 who were uninsured or 10.4% of the population.[8] The CDC estimates 65% of the population under age 65 had some form of private insurance with 26.3% receiving benefits from some type of governmental program.[9]

What I am proposing for 2018 is for regulators to study health care cost drivers to see if there are some insights to be gained. I have tasked the NAIC Health Insurance and Managed Care (B) Committee and the staff of the NAIC Center for Insurance Policy & Research (CIPR) with studying these cost drivers and reporting findings and recommendations.

As part of the Committee's work I will ask them to study the movement from a fee-for-service to a value-based reimbursement model. I suspect the fee-for-service model is contributing to the general cost of healthcare as neither the medical provider nor the patient have any incentive to control the cost of unnecessary care. In a value-based reimbursement model healthcare providers are rewarded for managing system costs and creating positive outcomes for patients. The groundwork for this change has been described in the Medicare Access and Children's Health Insurance Program (CHIP) Reauthorization Act of 2015. Our study needs to look at the possibility of exporting these ideas to the private insurance markets, both on the ACA Exchanges and for employer-based coverage.

Other things I plan to ask be considered include: the impact of vaccinations, the impact of cybersecurity breaches on healthcare costs, dietary implications such as obesity, genetic modifications to basic foods such as wheat, the costs

(Continued on page 9)

[4] https://www.cdc.gov/nchs/fastats/health-expenditures.htm. Accessed Jan. 4, 2018 based on 2015 data.
[5] Ibid.
[6] Ibid.
[7] https://www.cdc.gov/nchs/fastats/health-insurance.htm. Accessed on Jan. 4, 2018 based on 2016 data.
[8] Ibid.
[9] Ibid.

and treatment of asthma, Alzheimer's, diabetes, cancer treatments and items within a person's ability to control such as smoking and alcohol consumption.

I expect this study will bring together parties that do not generally work collaboratively. Hopefully the results will prove fruitful.

◆ LONG-TERM CARE CHALLENGES

The provision of long-term care for older Americans and the disabled has been a challenge. Long-term care refers to a wide range of medical, personal and social services. You may need this type of care if you have a prolonged illness or disability. This care may include help with daily activities, as well as home health care, adult daycare, nursing home care or care in a group living facility. Long-term care insurance (LTCI) is one way to pay for long-term care. It is designed to cover all or some of the services provided by long-term care.

The long-term care market has evolved significantly since its introduction in the 1960s. It now covers more than seven million lives. According to the U.S. Department of Health and Human Services (HHS), about 12 million of America's senior citizens will require long-term care by 2020. The major issue with the provision of long-term care is the inability to accurately predict how much the housing and health care will cost many years into the future.

As a result, traditional LTCI sales have fallen precipitously in recent years, from 754,000 individual policies in 2002 to 129,000 in 2014. Likewise the number of insurers offering the coverage has diminished from slightly over 100 in 2002 to about a dozen today, and premium rates for newly issued policies have risen as the remaining writers have refined their pricing.

These numbers reflect the fact in many cases; insurers struggled to accurately price LTCI initially and made a number of assumptions which turned out to be inaccurate. The result has been significant losses for many insurers selling this line of insurance and many LTCI consumers facing significant premium increases they did not anticipate. Ultimately, LTCI has proved to be a more expensive product as many insurers have refined their pricing. Hence, many consumers may be interested in exploring alternatives to traditional LTCI insurance as they consider ways to finance their potential long-term care needs.

When LTCI policies were first introduced, they were intended to supplement payment for the primary form of long-term care at that time—namely, nursing homes. As LTCI policies evolved, they now incorporate a myriad of long-term care service alternatives, including home health care, respite care, hospice care, personal care in the home, services provided in assisted living facilities, adult day care centers and other community facilities. Public programs, such as Medicare and Medicaid, also cover certain long-term care services. As our population ages, the need for long-term care support and services will become increasingly important and require innovative new approaches.

A May 2016 study by the NAIC Center for Insurance Policy and Research (CIPR) titled, *The State of Long-Term Care Insurance: The Market, Challenges and Future Innovations*, identified two key factors driving life insurance product development: 1) mortality risk; and 2) longevity risk. In recent years, the product focus has shifted to address longevity risk as baby boomers reach retirement age in a time when defined benefit pension plans are becoming a thing of the past. Technology and medical advances enable people to live longer. The blessing of a longer life is accompanied by the need to generate sufficient income in retirement to be able to enjoy the extra years and pay for long-term care if it becomes necessary.

It is the unknown factors presenting the primary challenges for insurers and state insurance regulators in the LTCI markets. Actuarial assumptions regarding longevity and persistency for early LTCI products proved to be inaccurate. Insurers underestimated how long people would live. As people lived longer, the likelihood they would need to call upon LTCI polices for coverage increased. It was soon apparent the actuarial longevity estimates were wrong. The obvious solution seemed to be to raise rates. This answer proved to be difficult and challenging politically, as the additional premium generally came from those on fixed incomes and least able to afford it.

A second assumption made by actuaries related to what they call persistency. In other words, the actuaries assumed many people would drop the coverage over time. This proved not to be the case, as dropping a policy meant the consumer would receive nothing in return for the premiums paid over time.

An additional unknown was the extent of the incidence of cognitive memory disorders such as Alzheimer's disease. There currently is no cure for Alzheimer's disease. However, advancements have been made in pharmaceutical and non-drug treatments of both cognitive and behavioral symptoms of the disease. People can live for a long time with Alzheimer's disease and similar memory challenges. If a cure for Alzheimer's disease were to be found, the cost of LTCI products would drop significantly.

(Continued on page 10)

What you have read so far may suggest there is no hope for saving the LTCI market. But there is some hope, and NAIC members are working on solutions. I would like to share some recent activities with you and discuss plans for 2018.

We are working to enact protections designed to keep abreast of the changes in product design and to address historical problems encountered in the marketplace. The NAIC membership adopted amendments to the *Long-Term Care Insurance Model Regulation* (#641) in August 2014 aimed at improving rate-stabilization provisions. The NAIC is producing and evaluating proposals related to:

- LTCI rate stability for existing policies; developing a new mortality standard for long-term care reserves based on the 2012 Individual Annuity Reserving Tables;
- Developing new tabular voluntary lapse standard for long-term care reserves;
- Working with interested parties to determine the appropriateness of a principle-based framework for LTCI valuation; and
- Developing regulatory guidance for premium deficiency reserve calculations.

Additionally, the NAIC Senior Issues (B) Task Force is taking a broad look at recent changes in the LTCI market, including shifts in the profile of purchasers, evolution of the types of products being sold, other changes in the marketplace and goals of regulation of this product. The Task Force created the Long-Term Care Innovation (B) Subgroup in 2016 to examine the future of LTCI, what type of LTCI products should be on the market going forward, and who is likely to buy these products.

The Subgroup developed two documents: 1) a list of federal policy changes for Congress to consider to help to increase private LTCI financing options for consumers, and 2) a list of private market options for financing LTCI services to provide regulators, policymakers, consumers, and other stakeholders an overview of the landscape of long-term care financing mechanisms currently available in the private market. The Subgroup intends to turn its attention to identifying and addressing potential regulatory barriers to innovation in the private market in order to spur innovative private market solutions to financing Americans' long-term care needs.

The LTCI benefits of insolvent insurers are covered under the NAIC *Life and Health Insurance Guaranty Association Model Act* (#520). The NAIC Receivership and Insolvency (E) Task Force will address issues and concerns with guaranty fund coverage developing as a result of new or ongoing discussions and work occurring in other LTCI groups.

There also have been public hearings and the release of a NAIC Center for Insurance and Research (CIPR) study, *The State of Long-Term Care Insurance: The Market, Challenges and Future Innovations*. The study provides a detailed overview of the state of the LTCI market, the economics and benefits of private long-term care insurance, the future demand of improved LTCI, long-term care reform proposals and regulation of LTCI rates.

Work on LTCI issues will continue in 2018 to build on the significant progress made last year. There will be challenges as issues related to a few significant insolvencies of past LTCI providers are being addressed. Because the industry is creative and resilient, there is hope that the combination product they are developing will be appealing to the public.

◆ GROUP SUPERVISION AND THE DEVELOPMENT OF GROUP CAPITAL STANDARDS

There is often a misperception that the entity-based solvency framework in the U.S. does not address group-level capital needs. The U.S. system of state-based insurance regulation has considered the financial condition of the holding company system, as well as any transactions with affiliates, for decades. However, state insurance regulators continue to place an emphasis on each insurance legal entity since that is where the legal contract with the policyholder exists. In light of the 2007–2008 financial crisis and the globalization of the insurance business models, state insurance regulators have begun to modify their group supervisory framework and have been increasingly involved in developing an international group supervisory framework.

Under the U.S. system of state-based insurance regulation, the need for group supervision was recognized early on, and the first NAIC model law adopted in 1969. While changes have been made in model laws since that time, the general principles of group supervision, including as reaffirmed in the 1978 NAIC Proceedings,[10] still remain. More recently the U.S. approach to group supervision adopted in the NAIC *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450) has been described as a "windows and walls" approach.

Regulators have "windows" to scrutinize group activity and assess its potential impact on the ability of the insurer to pay its claims and "walls" to protect the capital of the insur-

(Continued on page 11)

[10] NAIC Proceedings. 1978. Volume I. Pages 213-234.

er by requiring the insurance commissioner's approval of material related-party transactions. This approach is particularly effective in U.S. insurance groups, as the insurers in the group are typically the primary source of revenues and deployment of excess capital for the holding company.

The contagion effects experienced by U.S. insurers in the American International Group (AIG) holding company systems near collapse during the financial crisis caused U.S. state insurance regulators to reevaluate their group supervisory framework. Beginning in 2008, through the NAIC Solvency Modernization Initiative (SMI), U.S. state insurance regulators reviewed lessons learned from the financial crisis, and, specifically, studied AIG and the potential impact of noninsurance operations on insurance companies in the same group. Through the SMI, U.S. state insurance regulators devised plans for revisions to group supervision, maintaining the "walls" but enhancing the "windows" of the system.

The concepts addressed in the enhanced "windows and walls" approach include: 1) communication between regulators and supervisory colleges; 2) access to, and collection of, information from groups; 3) enforcement measures; and 4) group capital assessment.

To enhance systems for group supervision, the NAIC adopted revisions to Model #440 and Model #450 in 2010. The revisions included: 1) expanded ability to evaluate any entity within an insurance holding company system; 2) enhancements to the regulator's rights to access books and records and compelling production of information; 3) establishment of expectation of funding with regard to regulator participation in supervisory colleges; and 4) enhancements in corporate governance, such as responsibilities of board of directors and senior management.

Additionally, state insurance regulators adopted an expansion to the Insurance Holding Company System Annual Registration Statement (Form B) to broaden requirements to clarify the requirement to include financial statements covering all affiliates. A new Form F (Enterprise Risk Report) was also introduced for firms to require the group to identify its material risk throughout the enterprise, but specifically intended to identify the risk posed by the non-insurers that could have an impact on the group as a whole and in turn the regulated insurers.

In addition, state insurance regulators put into effect the international concept of the Own Risk and Solvency Assessment (ORSA). Pursuant to the NAIC *Own Risk and Solvency Assessment (ORSA) Guidance Manual* and the *NAIC Risk Management and Own Risk and Solvency Assessment Model Act* (#505), large and medium-size U.S. insurers and insurance groups are required to regularly perform an ORSA and file a confidential ORSA Summary Report of the assessment with the regulator of each insurance company upon request, and with the lead state regulator for each insurance group regardless of whether a request is made. Model #505 provides the requirements for completing an annual ORSA process and provides guidance and instructions for filing an ORSA Summary Report.

The lessons about group supervision are lessons insurance supervisors all over the world have learned. It is an element of the European Union (EU) Solvency II directive and continues to be a focus of discussions at the International Association of Insurance Supervisors (IAIS). As part of the enhancement to international supervisory cooperation and coordination, U.S. state insurance regulators are engaged at the IAIS on a number of work streams.

The IAIS has been focused on improving group supervision internationally through three main initiatives: 1) standard-setting through ongoing revisions to the IAIS Insurance Core Principles (ICPS); 2) the Supervisory Forum; and 3) the Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame). State insurance regulators have been, and continue to be, actively engaged in all of these initiatives.

In 2016, the NAIC formed the Group Capital Calculation (E) Working Group and tasked it with constructing a U.S. group capital calculation using a risk-based capital (RBC) aggregation methodology. Since its inception, it has been focused on developing the details of how such a calculation will consider specific items. Also since its inception, regulators involved with the Working Group and regulators with the Federal Reserve Board have shared views on the development of their respective calculations. A subset of Working Group members have been working with volunteer insurers who have submitted data to their regulator which is shared confidentially in a way to better inform the development of the details of the calculation on specific items. The Working Group has also set a goal of field testing a beta version of the calculation by the end of 2018.

◆ ENGAGEMENT ON INTERNATIONAL STANDARD SETTING

The U.S. insurance market is the largest and most competitive in the world. More than 5,900 insurers operate here with assets of almost $8 trillion and more than $2 trillion in annual premium. The insurance sector employs 2.2 million people directly and provides investment capital to fund local infrastructure projects, which also provide jobs. Twenty-six

(Continued on page 12)

U.S. states are among the world's 50 largest insurance markets, and, collectively, the states play a prominent role in promoting the growth and preserving the strength of the U.S. insurance sector, which, in turn, supports financial risk management and growth in all sectors.

The NAIC has a long history of engagement with our international regulatory counterparts. In fact, the NAIC was instrumental in the formation of what is now known as the International Association of Insurance Supervisors (IAIS). The IAIS was formed in 1994 and the NAIC served as its secretariat during its formative years. The IAIS later moved to Switzerland and hired its own staff. International organizations based in Europe, including the Financial Stability Board (FSB) and the IAIS, are working to develop global standards that may be well-intentioned in theory but ineffective in practice. Moreover, in some cases, the global standards may be inconsistent with current U.S. policy, our state-based system of insurance regulation, and the best interests of U.S. consumers and U.S. insurance industry.

The NAIC has enabled the states to coordinate domestically and internationally for many years. The state-based system's track record has been excellent for protecting policyholders and maintaining stable and competitive markets. I should note the system in the European Union (EU) (i.e., Solvency II) is not based on protecting consumers and encouraging strong competitive markets, but rather, on requiring sufficient capital so no insurer becomes insolvent. Further, much of the IAIS regulatory work is done in closed meetings while the U.S. state-based regulatory system operates with a great deal of transparency. It is a fundamentally different approach to regulation.

It is important to state insurance regulation to engage with international regulators through the IAIS and the FSB. It has become clear over time that the EU members are trying to impose their Solvency II regime on the rest of the world's regulators. We must remain engaged with the IAIS to ensure there is recognition of the effectiveness of the U.S. state-based regulatory framework. Engagement is needed to make sure global standards inconsistent with the U.S. regulatory approach are not forced upon us.

An important project for 2018 is work on development of a group capital calculation using an aggregation approach. We have a five-year window to develop, test and implement a group capital calculation that will achieve equivalent results to the IAIS Solvency II approach.

The U.S. Congress recognizes state insurance regulators oversee 100% of the U.S. private insurance market and are engaged in international leadership roles as group-wide supervisors who coordinate the oversight of large complex U.S. insurance groups operating across many jurisdictional borders. While the NAIC and its members are effectively the largest member of the IAIS, the Federal Insurance Office (FIO) and the Federal Reserve are also members, each with their own objectives, more narrow authorities and more limited insurance experience. The FIO and the Federal Reserve are also members of the Financial Stability board (FSB), which excludes state insurance regulators and the NAIC.

State insurance regulators, legislators, policyholders and insurers have all called for greater transparency in the discussions and decisions of the FSB and the IAIS. We are pleased with the recent efforts of the Administration and Congress to insist on greater accountability in the activities of the Treasury Department and the Federal Reserve Board on international insurance matters.

Recent directives have ordered FIO, Treasury and the Fed to support the state-based insurance regulatory system when dealing with international standard-setting bodies. We are happy with recent outreach by the Treasury and FIO and believe there will be a more collaborative and congenial relationship with them in the future. Although international standards are advisory only and non-binding, they nevertheless could be implemented in many jurisdictions and ultimately impact the competitiveness of the U.S. insurance sector.

Many U.S. stakeholders and state insurance regulators continue to question whether some aspects of the proposed international standards are warranted given the current financial strength of the insurance sector. The potential costs of new global group capital standards could discourage long-term investment and limit the variety of insurance products available.

All we are asking of our international counterparts is mutual recognition of each other's regulatory frameworks. We should not try to push our system on them and, in return, they should not attempt to impose their largely untested system on us.

◆ INSURANCE IMPLICATIONS OF BIG DATA

The public often feels the term "Big Data" is synonymous with "Big Brother." The public understands businesses collect information about them and want to use the data to increase revenues. Generally speaking, consumers believe data about themselves is their data, and they have some control over their data and how it is used. In many cases, people are willing to trade access to their data for some

(Continued on page 13)

benefit. Examples in the insurance sector include lower price, faster claim settlement, ability to do business online and instant communication with their insurer or insurance producer. They also want privacy and expect if a business collects and maintains information about them, the business will do whatever is necessary to protect that data from falling into the wrong hands.

It is interesting that the European Union's General Data Protection Regulation (GDPR) appears to be more concerned about privacy than are the laws and regulations in the U.S. The soon-to-be-implemented GDPR provides EU citizens with a right to access and a right to be forgotten. The right to access allows people to obtain information about what a business collects, how it is stored and the purpose for it being collected. The right to be forgotten allows the public to tell a business to delete or erase any data it may have related to the person making the request. We may find it necessary to become a bit more like the EU with respect to management of Big Data.

Advancements in technology have enabled the collection and storage of large and diverse amounts of information. So what is Big Data? There is no generally accepted definition of it. For our purposes we will assume Big Data is collection and compilation of data too complex for traditional data processing techniques to handle. For insurance purposes, Big Data refers to unstructured and/or structured data being used to influence underwriting, rating, pricing, policy forms, marketing and claims handling. Structured data refers to data in tables and defined fields. Unstructured data, comprising most data, refers to things such as social media postings, typed reports and recorded interviews. Predictive analytics allows insurers to use Big Data to forecast future events. The process uses a number of techniques—including data mining, statistical modeling and machine learning—in its forecasts.

As insurers collect more granular data about insurance consumers, state insurance regulators need greater insight into what data is available to the insurance industry, how it is being used, and whether it should be used by insurers. While the use of Big Data can aid insurers' underwriting, rating, marketing, and claim settlement practices, the challenge for insurance regulators is to examine whether it is beneficial or harmful to consumers.

Additional consumer concerns include how collected data is safeguarded and how consumer privacy is maintained. Another issue with Big Data is state insurance regulators need data beyond what has been traditionally collected. State insurance regulators may need to collect more useful data (beyond financial and market conduct data collected today) to allow for greater insight into insurers' models to further enhance regulation.

Insurers use Big Data in a number of ways. Some ways improve things for insurance consumers; while others might be detrimental. In some cases an element of Big Data might be beneficial to some, but not all people. Today we know insurers use Big Data to:

- More accurately underwrite, price risk and encourage risk reduction and pre-loss mitigation. Telematics, for example, allows insurers to collect real-time driver behavior data and combine it with premium and loss data to provide premium discounts to those who drive safely;
- Enrich customer experience by quickly resolving service issues;
- Improve marketing effectiveness by tailoring products to individual preferences;
- Create operating efficiencies by streamlining the application process (an example of this is a pre-filled homeowner's application);
- Facilitate better claims processing by applying machine learning algorithms to outcomes;
- Reduce fraud through better identification techniques (for example, text analytics can identify potential "red flag" trends across adjusters' reports); and
- Improve solvency through the ability to more accurately assess risk.

Despite this tremendous potential, Big Data has its critics. All disruptive technologies create winners and losers. It is incumbent on insurance regulators to address several concerns regarding Big Data. Among them are:

- The complexity and volume of data may present hurdles for smaller-sized insurers perhaps ultimately reducing rather than enhancing competition;
- Insurance regulatory resources for reviewing complex rate filings must be enhanced for greater understanding of how the information is being applied to the public;
- Lack of transparency and potential for bias in the algorithms used to synthesize Big Data might lead to unfair treatment of consumers or claimants;
- Highly individualized rates[11] could lose the benefit of risk

(Continued on page 14)

[11] Essentially a risk pool of one. Some question if a risk pool of one is a risk pool at all.

pooling that is part of the current insurance structure;
- Oversight of insurers' collection of information sensitive to consumers' privacy or potentially discriminatory must be enhanced;
- Resolution of the "who owns the data?" question is imperative; and,
- Consumers need to be assured the data they provide is adequately protected from cyber-threats.

It appears transparency is a large part of the answer to dealing with Big Data. If insurers are to be able to successfully use Big Data, they must be transparent to their customers. In this definition of customers the insurers need to remember the insurance regulators are their customers. For consumers, insurers need to be willing to tell them what information they collect, where it is stored, how it is safeguarded, and how it is used. If insurers are unwilling to do that, they can expect more resistance over time from those they hope to serve.

For regulators, transparency over the use of data is a necessity. In fact, it is the law. Insurers are generally compelled to support the rates they choose to employ. Opacity of the Big Data going into rating algorithms is not an option. Insurers must empower regulators and insurance producers with the information they need to explain to the public why the use of Big Data is a good thing. After all, what is insurance? It is simply a written promise to perform in the future when a contingent event occurs.

In 2018 the Big Data (EX) Working Group will be asked to:

- Review current regulatory frameworks used to oversee insurers' use of consumer and non-insurance data. If appropriate, recommend modifications to model laws and/or regulations regarding marketing, rating, underwriting and claims, regulation of data vendors and brokers, regulatory reporting requirements, and consumer disclosure requirements.
- Propose a mechanism to provide resources and allow the states to share resources to facilitate their ability to conduct technical analysis of, and data collection related to, the review of complex models used by insurers for underwriting, rating and claims. Such a mechanism shall respect and in no way limit the states' regulatory authority.
- Assess data needs and required tools for state insurance regulators to appropriately monitor the marketplace and evaluate underwriting, rating, claims and marketing practices. This assessment includes gaining a better understanding of currently available data and tools as well as recommendations for additional data and tools, as appropriate. Based on this assessment, propose a means to collect, house and analyze needed data.

As you can see, there will be a lot of activity around Big Data in 2018. I remain hopeful meaningful progress will be made to encourage its use in ways beneficial to consumers and competition in insurance markets. Further, any Big Data elements deemed detrimental to consumers or completion will be curtailed. I am optimistic significant progress will be made this year.

◆ Infrastructure Investments

Insurers have access to substantial amounts of capital. U.S. life insurers have more than $3.7 trillion in invested assets. Overall, U.S. insurers approach $8 trillion in assets to invest. The Trump administration has highlighted the need to invest in the nation's aging infrastructure to keep America competitive.

One of the challenges for the modern world is how to invest profitably and maximize rate of return while minimizing risk. Our lengthy stay in a low-interest-rate environment has not helped. Insurers, particularly life insurers, seem interested in infrastructure investments, because they find them attractive for asset-matching purposes as they are of long-duration, offer stable and secure cash flows, and would allow insurers another form of risk diversification. Yet, the current regulatory treatment does not encourage insurers to invest in infrastructure projects.

Investing in infrastructure is consistent with the Trump administration's goal of modernizing our nation's infrastructure. President Trump's recent statements suggest spending $1 trillion on infrastructure projects. The spending would potentially stimulate economic growth and add jobs.

Why not explore whether insurers might provide some of the capital needed to support these infrastructure projects? In 2018, state insurance regulators will discuss whether insurers should be investing in infrastructure projects. On the surface, it seems like a beneficial approach. While there might be liquidity challenges with long-term investments of this nature, life insurers can asset-match and are most interested in the stable, secure cash flows and attractive risk-adjusted returns offered by infrastructure projects.

(Continued on page 15)

◆ CLOSING REMARKS

Regulatory compliance and sound corporate governance go hand-in-hand. For state insurance regulation to be successful we need to promote safe and sound insurers operating in a culture of sound corporate governance and we need to encourage healthy competitive environments to provide choices to insurance consumers. We need to encourage innovation while keeping consumer protection front-of-mind.

What might have been considered science fiction a few years ago is now reality for us today. Artificial intelligence (AI) is changing the world as we know it and impacting our future. Advances in health care are being made allowing doctors to diagnose and manage new diseases even before the symptoms are detected. This has implications for the cost and quality of health care delivered to Americans. As regulators we need to stay in front of these developments and monitor the impact on health insurers and health insurance.

Eventually AI might be used to discover and catalog risks in all areas. Using AI technology to extract new risk and cyber-threat intelligence from large volumes of unstructured and structured data offers amazing potential for us to operate in a safer, more secure world. State insurance regulators might be able to use Big Data and predictive analytics to monitor insurer market performance and nip consumer abuses in the bud. AI offers tremendous potential in guarding against fraud. We also need to understand how these tools are being used by insurers so we can work with them to keep rates fair and claim settlement practices above board.

Our State Ahead strategic plan provides us with a roadmap for success. I appreciate all the support of NAIC members, consumers, the industry and our staffs as we move this plan from concept into action. Working together we can—and will—make a difference.

ABOUT THE AUTHOR

Commissioner Julie Mix McPeak was appointed by Governor Bill Haslam to lead the Tennessee Department of Commerce and Insurance in January 2011. Before being named to lead the department, McPeak practiced as Counsel to the insurance practice group of law firm Burr & Forman LLP. She also served as the Executive Director of the Kentucky Office of Insurance (KOI). Before her appointment as Executive Director, she spent nine years as an attorney for KOI, the final five as general counsel. She also served as general counsel to the Kentucky Personnel Cabinet.

McPeak brings more than 20 years of legal and administrative experience in state government. She is the first woman to serve as chief insurance regulator in more than one state.

Her leadership as TDCI Commissioner garnered recognition from Business Insurance Magazine which honored her as one of the 2013 Women to Watch.

In November 2015, McPeak was elected Secretary-Treasurer of the NAIC. She has been an active NAIC participant for nearly 20 years and has served on the NAIC's Executive Committee since 2013. In addition to her leadership duties with the NAIC, McPeak is also an Executive Committee member of the International Association of Insurance Supervisors (IAIS) and a member of the Federal Advisory Committee on Insurance (FACI).

McPeak served as co-counsel for the Kentucky Association of Health Plans v. Miller, a case heard before the Supreme Court of the United States, regarding ERISA preemption and state "Any Willing Provider" statutes. McPeak is a frequent author and lecturer on insurance issues, having addressed members of the American Council of Life Insurers, the National Association of Mutual Insurance Companies, the National Alliance of Life Companies and the Million Dollar Roundtable. McPeak authored chapter 9: "Licensing of Insurers" for New Appleman on Insurance, Library Edition and co-authored the article, "The Future of State Insurance Regulation: Can it Survive?" featured in Risk and Management Insurance Review.

McPeak is a member of the Tennessee Bar Association, Kentucky Bar Association, and the Nashville Bar Association. She has been a member of the American Bar Association, Tort and Insurance Practice section, where she served as vice-chair of the Insurance Regulation Committee and a member of the Federal Involvement in Insurance Regulatory Modernization Task Force. McPeak has also served on the Board of Directors of NIPR.

McPeak received her J.D. from the University of Louisville, School of Law in 1994. She is a 1990 graduate of the University of Kentucky, where she received her B.B.A., With Distinction, in Marketing.

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