

Draft Pending Adoption

Draft: 11/26/18

Producer Licensing (D) Task Force
San Francisco, California
November 15, 2018

The Producer Licensing (D) Task Force of the Market Regulation and Consumer Affairs (D) Committee met in San Francisco, CA, Nov. 15, 2018. The following Task Force members participated: Barbara D. Richardson, Chair (NV); Larry Deiter, Vice Chair (SD); Lori K. Wing-Heier represented by Mike Ricker (AK); Jim L. Ridling represented by Jimmy Gunn (AL); Allen W. Kerr represented by Kenneth Ryan James (AR); Dave Jones represented by Charlene Ferguson (CA); David Altmaier represented by Matt Tamplin (FL); Dean L. Cameron represented by Nathan Faragher (ID); Jennifer Hammer represented by Erica Weyhenmeyer (IL); Nancy G. Atkins (KY); James J. Donelon represented by Barry Ward (LA); Patrick M. McPharlin represented by Michele Riddering (MI); Chlora Lindley-Myers represented by Carrie Couch (MO); Mike Chaney represented by Vanessa Miller (MS); Mike Causey represented by Kathy Shortt (NC); Bruce R. Ramge represented by Peg Jasa (NE); Jillian Froment represented by Jana Jarrett (OH); John D. Doak represented by Glenn Disher and Eli Snowbarger (OK); Elizabeth Kelleher Dwyer represented by Paula M. Pallozzi (RI); Raymond G. Farmer represented by Daniel Morris (SC); Kent Sullivan represented by Jamie Walker (TX); Todd E. Kiser represented by Randal Overstreet (UT); Scott A. White represented by Mike Beavers (VA); Mike Kreidler represented by Jeff Baughman (WA); and Ted Nickel represented by Cari Lee (WI). Also participating were: Scott Greenberg (AZ); and Tom Glause (WY).

1. Adopted its Oct. 23 Minutes

Commissioner Richardson said the Task Force conducted an e-vote that concluded Oct. 23 and took the following action: 1) adopted its Summer National Meeting minutes; and 2) adopted its 2019 proposed charges.

Mr. Baughman made a motion, seconded by Director Deiter, to adopt the Producer Licensing (D) Task Force's Oct. 23 minutes (Attachment One). The motion passed unanimously.

2. Discussed a Request from the Surplus Lines (C) Task Force

Commissioner Richardson said the Surplus Lines (C) Task Force is requesting the Producer Licensing (D) Task Force to consider whether the regulatory requirement of a producer to hold an underlying property/casualty (P/C) license to qualify for a surplus lines license should also allow a producer to hold an underlying accident and health (A&H) license to qualify for a surplus lines license. Commissioner Richardson said if the Task Force determines that the underlying licensure requirement to qualify for a surplus lines license should be expanded to include an A&H license, the *State Licensing Handbook* and NAIC Uniform Licensing Standards (ULS) for surplus lines would need to be changed. Commissioner Richardson said the ULS for surplus lines is "States shall require an underlying property/casualty license prior to the issuance of a resident surplus lines license."

Mr. Greenberg asked if there would be any restrictions on the surplus lines license based upon the underlying license. Commissioner Richardson said the change to the NAIC ULS would not alter state law. Mr. Greenberg said the change in the underlying license without any restrictions on the surplus lines license could lead to potential lobbying in states that maintain certain restrictions not consistent with the NAIC ULS.

Commissioner Richardson said she would coordinate with NAIC staff to circulate proposed language for the Producer Licensing (D) Task Force to review. Commissioner Richardson said the Surplus Lines (C) Task Force is expecting a final recommendation from the Producer Licensing (D) Task Force no later than the 2019 Spring National Meeting.

3. Adopted Revisions to the Continuing Education Reciprocity (CER) Form and Instructions

Mr. Beavers said the Uniform Education (D) Working Group began its review of the Continuing Education Reciprocity (CER) Form and Instructions in June. Continuing education (CE) providers may use the CER Form to streamline the course-approval process in multiple states. Through the reciprocal approval process, the CE provider's home state conducts a substantive review of the CE course and, therefore, non-resident states do not need to perform a similar review for a course previously approved by the home state. Mr. Beavers said the Uniform Education (D) Working Group adopted the CER Form via conference call on Sept. 27 and adopted the Instructions via conference call on Nov. 9.

Draft Pending Adoption

Mr. Beavers made a motion, seconded by Mr. Baughman to adopt the CER Form and Instructions. The motion passed unanimously (Attachment Two).

4. Adopted the Report of the Uniform Education (D) Working Group

Mr. Beavers said the Uniform Education (D) Working Group met via conference call on Nov. 9 and adopted revisions to the Uniform Continuing Education Reciprocity Course Filing Form Instructions. During its Oct. 25 conference call, the Working Group adopted its Sept. 27, Aug. 23 and Aug. 16 minutes. Mr. Beavers said the Uniform Education (D) Working Group adopted revisions to the NAIC Uniform Continuing Education Reciprocity Course Filing Form during its Sept. 27 call.

Mr. Beavers made a motion, seconded by Mr. Baughman, to adopt the report of the Uniform Education (D) Working Group report, including its Nov. 9 (Attachment Three) and Oct. 25 (Attachment Four) minutes. The motion passed unanimously.

5. Discussed Business Entity Licensing Standards

Commissioner Richardson said in June 2007, the NAIC formed a Producer Licensing Coalition as a partnership of state insurance regulators and national trade organizations to focus on and facilitate producer licensing reciprocity and uniformity initiatives. The Coalition began its discussions by focusing on the key issues surrounding state implementation of NAIC ULS in state legislatures, with varying viewpoints and legislative goals between the national and local trade lobbyists and members. Commissioner Richardson said the Coalition decided there needs to be a more streamlined process for business entity licensing. NAIC members began work in August 2007 to simplify the process. In 2009, producer licensing trade associations submitted proposed ULS for business entities. Commissioner Richardson said the Producer Licensing (D) Task Force revised the submitted standards and adopted ULS for business entities on Nov. 12, 2009. However, the standards were never presented to the NAIC's Executive (EX) Committee and Plenary for consideration.

Commissioner Richardson read the adopted standards: 1) Business Entity Licensing: States have the discretion to require business entities to obtain insurance licenses, but any state that does so shall adhere to the standards outlined in this section. (NOTE: States will need to be aware that standards have been adopted or are under consideration for certain limited lines that will require only an entity license with no individual licenses.); 2) Business Entity Branches: States shall not require the licensing, registration or appointment of individual branch locations that operate under the same federal employee identification number (FEIN) as the home office or require a designated responsible producer to be onsite at a branch location at all times but may require a producer to notify the state insurance commissioner in writing of the street address of each branch; 3) Affiliation Filings: States requiring the reporting of affiliations must do so utilizing an electronic process. (NOTE: This standard is not applicable until a uniform electronic process is developed.); 4) Organizational and Other Filings: Non-resident states shall not require business entities to submit organizational documents, filings related to officers and directors, proof of financial responsibility, or similar documents; and 5) Corporate Registration: Non-resident states shall not require a business entity to register as a foreign corporation as a condition of obtaining or maintaining a non-resident insurance license.

Commissioner Richardson said the standards would be circulated for review as a starting point for further discussion.

Wes Bissett (Independent Insurance Agents and Brokers of America—IIABA) and John Fielding (Steptoe & Johnson LLP) said they support the efforts to review the business entity licensing standards.

6. Heard a Report from the NIPR Board of Directors

Commissioner Glause said the National Insurance Producer Registry (NIPR) Board of Directors met Nov. 14. During this meeting, the Board heard a report from the NIPR Audit Committee regarding NIPR's financials through September 2018. Revenues were 6.7% over budget and 8.5% above revenues from the prior year. The Board approved NIPR's 2019 budget. The Board reported the following key investments will allow NIPR to scale its business to meet demand resulting from the increase in business volume: 1) NIPR's migration to the cloud; 2) the addition of six additional team members—two in customer service and four in technology; and 3) continued investment in professional and technical education and leadership development. Finally, the Board received a report on the NAIC and NIPR's ongoing cybersecurity initiatives.

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Commissioner Richardson said in February, the American Council of Life Insurers (ACLI) submitted a comment letter requesting the Producer Licensing (D) Task Force adopt criteria for states conducting annual reviews of their producer examinations. David Leifer (ACLI) addressed the Task Force on this issue at the Spring National Meeting. Commissioner Richardson said the Task Force recognized the importance of this issue but did not make this a priority issue.

Mr. Leifer said he understands the Task Force is making the review of uniform business entity licensing standards a priority and requested the Task Force to note the importance of the examination review process for the ACLI. He said the ACLI is making examinations better and said there are new concerns with computer-generated exams through which exam testing vendors generate individualized examinations to deter cheating.

8. Discussed Other Matters

Commissioner Richardson asked that the minutes reflect that the Producer Licensing Uniformity (D) Working Group has not met since the Summer National Meeting, and thus no report was provided.

Jeff Klein (McIntyre & Lemon) said insurance producers are required to report administrative actions and may need to report such actions to multiple states due to licensing status. Mr. Klein said a producer may not report to all jurisdictions in which he/she is licensed due to an administrative or transmission error, and this can then lead to additional administrative actions for failure to report. Mr. Klein requested state insurance regulators take into consideration the possibility of administrative or system errors prior to the taking administrative actions for failure to report.

Having no further business, the Producer Licensing (D) Task Force adjourned.

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MEMORANDUM

TO: Barbara D. Richardson, Chair, Producer Licensing (D) Task Force

FROM: James J. Donelon, Chair, Surplus Lines (C) Task force

DATE: August 4, 2018

RE: Referral on Surplus Lines Licensure

The Surplus Lines Task Force (SLTF) formed the Accident & Health Drafting Group (Drafting Group) following a nonadmitted and disability insurance presentation to the Task Force and subsequent survey of the states. The survey results indicated that nonadmitted accident and health (A&H) coverages were being written in a number of states. However, there were limitations in available coverages and several states appeared willing to address this market concern. As a result, the Drafting Group's charge was to produce draft guidelines that will assist the states in addressing A&H coverages in the non-admitted market.

Per the State Licensing Handbook, Page 220, Standard 39 - Surplus Lines Standards indicates, "States shall require an underlying property and casualty license prior to the issuance of a resident surplus lines license." The draft Nonadmitted A&H Guidelines, Section 2 – Background, outlines certain types of A&H coverages where a producer may be required to hold an Accident & Health license. The Drafting Group would like to raise the point that a producer holding one of these licenses may not possess a property and casualty license, and therefore, not qualify for a surplus lines license.

The SLTF recommends the Producer Licensing (D) Task Force consider whether the requirement of an underlying property and casualty license needed to qualify for a surplus lines license should also allow an Accident & Health license to fulfill the requirement. If it is determined that the underlying licensure requirement to qualify for a surplus lines license should be expanded to include Accident & Health, it is recommended that State Licensing Handbook, Standard 39 - Surplus Lines Standards be changed to reflect the inclusion.

If there are any questions regarding the proposed recommendation, please contact me or NAIC staff (Andy Daleo at adaleo@naic.org or Bob Schump at rschump@naic.org) for clarification.

Thank you for your consideration.

**Proposed Revisions to Uniform Licensing Standards for Surplus Lines and
NAIC State Licensing Handbook**

SURPLUS LINES STANDARDS – FROM UNIFORM LICENSING STANDARDS

37. Surplus Line Standards:

States shall require ~~an~~ either underlying ~~p~~Property & ~~e~~Casualty licenses or an underlying Accident and Health or Sickness license prior to the issuance of a resident surplus lines license.

38. Surplus Line Exam

States may, but are not required to have a surplus line examination.

EXCERPT FROM STATE LICENSING HANDBOOK

Under the ULS, a producer who wishes to engage in the sale of surplus lines insurance (SLI) must first obtain a surplus lines producer license. Under the ULS, this is considered a license type and not a line of authority; however, in some of the states, it is treated as a line of authority. The ULS require that a resident producer hold both property and casualty lines of authority or an accident and health or sickness line of authority before an SLI producer license can be issued. Under the previous reciprocity provisions of the GLBA, surplus lines producers were entitled to reciprocal licensing if they were licensed for surplus lines and in good standing in the producer's home state. The NAIC uniform application is to be used for application as a surplus lines producer.

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Conference Call

**UNIFORM EDUCATION (D) WORKING GROUP
December 20, 2018**

Summary Report

The Uniform Education (D) Working Group met via conference call Dec. 20, 2018. During this meeting, the Working Group:

1. Discussed the NAIC Uniform Continuing Education Reciprocity Course Filing Form (CER Form) and instruction sheet. The CER Form and instruction sheet were combined as one document and adopted by the Producer Licensing (D) Task Force at the 2018 Fall National Meeting. The document will be presented to the Executive (EX) Committee and Plenary for consideration of adoption at the 2019 Spring National Meeting.
2. Discussed its charges and priorities for 2019. The charges are to:
 - a. Update, as needed, the reciprocity guidelines, the uniform application forms for continuing education (CE) providers, and the process for state review and approval of courses. Provide any recommended updates to the Producer Licensing (D) Task Force by the 2019 Fall National Meeting.
 - b. Coordinate with NAIC parent committees, task forces and/or working groups to review and provide recommendations, as necessary, on prelicensing education and CE requirements that are included in NAIC model acts, regulations and/or standards.
3. Discussed the NAIC CE Reciprocity Agreement (CER Agreement). The Working Group discussed the strategy for reviewing the CER Agreement. The Working Group will distribute a draft for review. The Working Group will meet via conference call, as necessary, to finalize its review by the 2019 Fall National Meeting.

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March 11, 2019

**Producer Licensing Task Force
c/o Tim Mullins, NAIC**

RE: Reinstatement of NAIC PLTF Adjuster Working Group

To the Producer Licensing Task members:

Over the past few years, SILA has created multiple task groups comprised of industry, regulators, and interested parties who have been working diligently and spent a significant number of hours researching and defining adjuster issues and requirements related to the lack of reciprocity/uniformity amongst states.

While achieving uniformity is the ultimate goal, reaching reciprocity between states continues to be problematic and challenging and it remains a concerted effort by the NAIC and interested parties to encourage and convince all the states to adopt the National Association of Insurance Commissioner's ("NAIC") Independent Adjuster Licensing Guidelines ("Guidelines") as well as the Independent Adjuster Reciprocity Best Practices & Guidelines ("Best Practices and Guidelines"). This scenario realistically will only succeed with the same hard work that was required for the Producer Licensing Model Act (PLMA).

Reciprocity Objectives

SILA recognizes that the objectives identified are NOT ideal, rather, the objectives will allow states to transition into the uniformity environment, while allowing adjusters to receive a nonresident license based on their home state license requirements, regardless of the requirements. This approach is similar to what occurred in producer licensing to address the variations of state requirements and provide a transition until such time states were able to enact and adopt the Reciprocity and Best Practices for Adjusters that the NAIC adopted and are identified below. While reciprocity is something to initially achieve and is only a good start, states should continue to strive forward in achieving uniformity that will provide continuity and streamline licensing, creating an efficient license environment within adjuster licensing.

- All states to recognize the successful completion of another state's adjuster exam as the foundation to issue a nonresident license.

- States recognize and accept the background checks performed by the adjuster’s resident or DHS state.
- States recognize and accept that the nonresident adjuster has met the continuing education requirements required by the adjuster’s resident or DHS state.
- All states adopt the NAIC Independent Adjuster Guidelines and the Independent Adjuster Reciprocity Best Practices and Guidelines.

Although states continue to make progress in accepting and implementing the Guidelines as well as the Best Practices and Guidelines, particularly regarding the issue of Designated Home State (“DHS”), ongoing state interpretations and requirements continue to hamper achieving adjuster licensing reciprocity. To facilitate discussions, the group has identified various issues that continue to create challenges:

1. **Lack of Uniformity in adjuster continuing education (CE).** Even though the NAIC adopted the NAIC Independent Adjuster Reciprocity Best Practices and Guidelines, it has yet to create and define specific CE standards for adjusters, similar to the NAIC’s Uniformity Licensing Standards (“ULS”) for Producers. This omission continues to create problems as a result of various state interpretations and requirements, particularly in the area of CE and the DHS license. SILA has drafted proposed standards that essentially mirror the NAIC ULS CE standards for producers. In some instances the standards were modified to accommodate requirements for adjusters, including adjusters who hold a Designated Home State (DHS) license.
2. **DHS licensing.** Over the past several years, tremendous progress has occurred with NIPR’s expansion of online products for adjuster licensing, including DHS and No Home State License. Even with these product enhancements, as states implemented DHS, **other** issues developed that complicated the adjuster licensing process in ways the Independent Adjuster Guideline did not contemplate.
 - a. **DHS licenses.** An adjuster should not have more than one DHS license for the same type (independent, state/company or public) and Line of Authority (LOA) or allowing an adjuster to obtain a DHS license even though the adjuster resides in a state that issues a resident adjuster license. This should not be occurring and states should work with NIPR to verify or confirm that an adjuster may not obtain a license when they reside in a state that issues a resident adjuster license for the same type of authority (independent, staff/company or public) and LOA.
 - b. **Applying “Resident” adjuster requirements to the DHS adjuster any state.** The “home” state granting a DHS declaration would apply resident requirements to that nonresident adjuster. The NAIC adopted the Independent Adjuster Reciprocity Best Practices Guidelines which identifies specific state requirements that apply to DHS licensees.
 - c. **Data Verification/PDB Issues.** NIPR has expanded systems and products to include all aspects of adjuster licensing, including the ability for an adjuster to obtain a license in a state which is not the adjuster’s home state or obtain other nonresident adjuster licenses when the adjuster does not hold a resident adjuster

license. However, state laws and processes must be updated and modified to accept these online program transactions.

- d. **Examination Requirements** –States must recognize and accept the successful passage of a nonresident exam for waiver of their exam. Not all states will allow their own state to be a designated home state; but will recognize another state's exam to waive their own exam. For the sake of uniformity, it is preferred that all states accept the nonresident DHS qualification as the DHS basis to obtain other nonresident licenses.
3. **Lines of Authority (LOA)** The issuance of an adjuster license with lines of authority (LOA) continues to be problematic. Section 7 within the NAIC Independent Adjuster Licensing Guidelines identifies LOAs as property, casualty, workers compensation and crop. Further, to address the issue regarding inconsistent LOAs state by state, the NAIC Independent Adjuster Reciprocity Best Practices and Guidelines addressed the issue by encouraging states that issue nonresident licenses to issue the license for at least the line of authority held in the home state/DHS, even if the line of authority held in the applicant's home state/DHS state may not precisely align with the lines issued by the nonresident state. This concept is similar to what was provided for producers as a transition until such time states could enact/adopt the specific LOAs. Even with this guidance, states have not adopted this concept which has created additional requirements and obstacles for adjusters seeking licensure in nonresident states. To achieve the necessary compliance, a work around has occurred that the adjuster will obtain another DHS license for the specific LOA required to conduct business in that nonresident state. The Workers' Compensation (WC) Line of Authority (LOA) continues to create problems for adjusters due to the fact that states are not adopting the LOAs noted within the NAIC Best Practices and Guidelines and Independent Adjuster Licensing Guideline which may result in an adjuster having to obtain a DHS license due to the fact that his true home state or the adjuster's DHS state license does not include the WC LOA on the license and the adjuster must have taken a test to obtain the WC license in another state (and possibly designate that state as the DHS for WC authority only).
4. **Emergency Adjusters** The increase in weather related events over the past years highlights the need for a more practical and uniform approach to regulating emergency adjusters. The Guidelines provide a good benchmark for the emergency adjuster authorization process, however, the practical application of those guidelines may have missed the mark in expeditiously delivering the skilled relief needed by claimants during a catastrophic event. Specifically, it is time to utilize the technology to replace manual processes that deplete state resources during a difficult time and centralize information to identify, access, license/register, and deploy adjusters to affected areas.

In conclusion, SILA is requesting that the Producer Licensing Task Force reinstate the Independent Adjuster Licensing Working Group with a charge to review, assess, and monitor specific adjuster licensing standards or best practices. We offer our assistance and look forward to ongoing dialog to address and rectify the issues that continue to impact this industry.

Thank you for your consideration. Please let us know if additional information is needed to support the above various adjuster issues.

Barbara Gavitt, A.D. Banker & Co.
SILA's Education & Training Subgroup (SETS) Chair

Diana Capes
SILA's Executive Director