

INNOVATION AND TECHNOLOGY (EX) TASK FORCE

Innovation and Technology (EX) Task Force April 8, 2019, Minutes

Innovation and Technology (EX) Task Force Nov. 17, 2018, Minutes (Attachment One)

Big Data (EX) Working Group April 6, 2019, Minutes (Attachment Two)

Big Data (EX) Working Group, Feb. 25, 2019, Minutes (Attachment Two-A)

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Innovation and Technology (EX) Task Force
Orlando, Florida
April 8, 2019

The Innovation and Technology (EX) Task Force met in Orlando, FL, April 8, 2019. The following Task Force members participated: Jon Godfread, Chair (ND); Keith Schraad, Vice Chair (AZ); Lori K. Wing-Heier (AK); Jim L. Ridling represented by Jerry Workman (AL); Allen W. Kerr represented by Letty Hardee (AR); Ricardo Lara (CA); Michael Conway represented by Peg Brown (CO); Andrew N. Mais represented by George Bradner (CT); Stephen C. Taylor (DC); Trinidad Navarro (DE); David Altmaier represented by Sandra Starnes (FL); Doug Ommen (IA); Dean L. Cameron represented by Pamela Murray (ID); Robert H. Muriel represented by Erica Weyhenmeyer (IL); Vicki Schmidt (KS); Nancy G. Atkins represented by Patrick O'Connor (KY); James J. Donelon represented by Rich Piazza (LA); Gary Anderson (MA); Al Redmer Jr. represented by Paula Keen (MD); Anita G. Fox represented by Chad Arnold (MI); Steve Kelley represented by Phillip Vigliaturo and Tammy Lohmann (MN); Chlora Lindley-Myers and Cynthia Amann (MO); Bruce R. Ramge (NE); John Elias represented by James Fox (NH); Marlene Caride (NJ); Barbara D. Richardson (NV); Mike Causey represented by Fred Fuller (NC); Jillian Froment and Amanda Baird (OH); Glen Mulready (OK); Andrew Stolfi represented by TK Keen (OR); Jessica Altman represented by Alison Beam (PA); Elizabeth Kelleher Dwyer (RI); Raymond G. Farmer (SC); Larry Deiter (SD); Julie Mix McPeak and Lorrie Brouse (TN); Kent Sullivan represented by Leah Gillum (TX); Todd E. Kiser (UT); Scott A. White represented by Vicki Ayers (VA); Michael S. Pieciak represented by Christina Rouleau (VT); Mike Kreidler represented by Lichiou Lee (WA); Mark Afable represented by Nathan Houdek (WI); and James A. Dodrill represented by Erin K. Hunter (WV).

1. Adopted its 2018 Fall National Meeting Minutes

Commissioner Godfread asked if there was any discussion regarding the Task Force's 2018 Fall National Meeting minutes. He said the attendee for Vermont noted in the minutes is in error and will be corrected in addition to an amendment made to the second paragraph from the bottom on page 3, changing the wording from "at least four states" to "approximately 44 states" in the sentence regarding how many states currently permit notices of cancellation to be provided electronically as opposed to mail or some other form of physical delivery.

Mr. Bradner made a motion, seconded by Director Farmer, to adopt the Task Force's Nov. 17, 2018 minutes, as amended (Attachment One). The motion passed unanimously.

2. Adopted the Reports of its Working Groups

a. Big Data (EX) Working Group

Commissioner Ommen said the Big Data (EX) Working Group met April 6 and, in addition to adopting its Feb. 25, minutes, it heard a recommendation from NAIC management to: 1) hire a technical staff resource to provide technical support for state insurance regulators in the review of actuarial models; 2) develop a tool for state insurance departments to share information on model reviews; and 3) develop a training and education program.

Commissioner Ommen said the Working Group also received an update from the Casualty Actuarial and Statistical (C) Task Force. He said the Task Force exposed a draft white paper regarding best practices for the review of predictive models and analytics filed by insurers to justify rates, as well as the development of state guidance for rate filings that are based on complex predictive models. He said the Working Group is currently reviewing comments and suggestions for additions and revisions to the white paper.

Commissioner Ommen said the Working Group also adopted a motion to request the Life Insurance and Annuities (A) Committee—through an existing working group or by appointment of a new working group, and in collaboration with the ongoing work of the Experience Reporting (A) Subgroup—to study the use of external data and data analytics in accelerated life underwriting and draft and propose appropriate state guidance or best practices. He also said the Working Group agreed to study the use of big data in insurer claim practices such as claim valuation and antifraud efforts.

Commissioner Ommen made a motion, seconded by Director Schraad, to adopt the report of the Big Data (EX) Working Group (Attachment Two). The motion passed unanimously.

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b. Speed to Market (EX) Working Group

Commissioner Godfread said the Speed to Market (EX) Working Group, chaired by Superintendent John G. Franchini (NM), had not met yet this year; therefore, no report on its activities will be provided at this meeting.

3. Heard an Update on Cybersecurity Initiatives and the Implementation of Model #668

Director Farmer provided an update on cybersecurity initiatives. He said the states are making progress in adopting the *Insurance Data Security Model Law* (#668) in addition to the New York regulation. He said four states have adopted something similar to Model #668, with Mississippi having just passed a law based on the NAIC model last week. He said there are an additional four states that have introduced insurance data security legislation during the 2019 legislative year. He cautioned the states considering legislation to be wary of suggestions to exempt health insurers, noting that there were significant compromises in that area in 2014 when these efforts began.

Director Farmer said he was honored to host a cybersecurity tabletop exercise in collaboration with the U.S. Department of the Treasury that included the Federal Bureau of Investigation (FBI) and about 50 state insurance regulators, insurance companies and other participants, mainly targeting small and regional companies. He said he participated in tabletop exercises at the national level before and noticed large companies have a good understanding of cyber risk and what they need to be doing in that area; however, there is concern about small and regional companies having the necessary resources and ability to respond to cyber risk and breaches. He said it was productive and helpful, but the main takeaway was that several smaller companies said they really had not paid attention to cyber risk until the South Carolina law was enacted. He said this was instructive on several fronts, but specifically noting these smaller companies will not likely dedicate the resources and will not pay attention until it is brought to their attention through the passing and implementation of the model. He said the plan is to have one more tabletop exercise similar to this one, probably in the Midwest, later this year or the beginning of 2020. He said, at that point, the NAIC will develop a template to be used by other states and other zones to have this tool to use to further educate the industry and others on cyber related issues.

Superintendent Dwyer said a lot of the issues that will be brought forward in the process of introducing Model #668 in state legislatures have already been addressed and discussed by the Cybersecurity (EX) Working Group when it existed, and she would be happy to share the background and reasoning behind the language. Commissioner Godfread noted that Superintendent Dwyer and Director Farmer were instrumental in drafting the model; and, in addition, the NAIC has legal resources to assist with questions or needed information as this process continues.

Commissioner Godfread said there continues to be robust discussion on Capitol Hill regarding cybersecurity, data breaches and privacy standards. He said that while no new legislative proposals have been released yet this U.S. Congress, it is anticipated that such proposals will be moving forward, and he will keep the Task Force updated as the discussions continue.

4. Heard an Update on Task Force Activities and Deliverables

Commissioner Godfread asked Denise Matthews (NAIC) to provide an update on the activities of the Task Force since it was created in 2017.

a. Heard an Update on Task Force Activities to Date

Ms. Matthews provided an update on the accomplishments of the Task Force relative to its charges since its inception in 2017. She reviewed the work done to learn about and network more closely with stakeholders in this space, including accelerators, incubators, venture capitalists, and many innovators be they startups or incumbent insurers. She noted the activities and opportunities in 2017 and 2018 and reported on the presentations and activities of the Task Force during national meetings and the NAIC/NIPR Insurance Summit. She said this activity tied closely to the first charge.

Ms. Matthews also talked about the second charge related to developing regulatory guidance, white papers or other recommendations, as appropriate, noting the Task Force's work around anti-rebating, cancellation and renewal notices, and e-signature, as well as efforts to identify other impediments to innovation. She said the Big Data (EX) Working Group was actively involved in several specific proposals, and the NAIC Center for Insurance Policy and Research (CIPR) will be working on an InsurTech policy paper in the upcoming months, basing it on much of the work and activities of the Task Force.

Ms. Matthews also said the Task Force has been actively suggesting assignments to other committees related to innovation and technology, including the work of the Property and Casualty Insurance (C) Committee on autonomous vehicles and surplus

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lines and the Producer Licensing (D) Task Force related to the role of chatbots and artificial intelligence (AI) in the distribution of insurance and the regulatory supervision of those technologies.

Commissioner Godfread requested that state insurance regulators and interested parties facing these issues bring the specific problems forward to the small group. He said that would help the Task Force develop guidance.

b. Heard an Update on Recent Activity Related to Blockchain

Director Schraad provided an update on activities to date regarding monitoring developments in the blockchain area. He said blockchain is an exciting topic and provides the opportunity to potentially reduce regulatory friction and bring about transparency to insurance transactions. He said the NAIC has been active in providing information to its membership on blockchain since the early days, starting in about 2016 focusing on technology through CIPR events and has been active with several organizations in this space to figure out how it might impact insurance and insurance regulation. He said there have been several meetings and phone calls with The Institutes' RiskBlock Alliance, and about seven states are currently a part of that process to determine good use cases for the technology, such as premium tax collection, and a number of discussions have been held with the American Association of Insurance Services (AAIS), which is partnering with IBM.

Director Schraad said he and Andrew J. Beal (NAIC) served on a panel for the Silicon Valley Insurance Accelerator in January, providing an opportunity to talk about the regulatory environment as it relates to technology and hear from some of the startups pursuing blockchain initiatives. He said several states are looking at use cases individually, such as Arizona Vermont. Additionally, he said this topic will be covered at NAIC/NIPR Insurance Summit in June, and the CIPR will be holding a symposium on blockchain to drill down deeper on this topic. He also recommended some online resources that do a great job of explaining blockchain.

c. Heard an Update on Activities from the Innovation and Technology Small Group on Anti-Rebating, Cancellation/Renewal and E-Signature Issues

Commissioner Godfread provided an update on the activities of the small volunteer group of states working on issues identified as potential obstacles to innovation. He said the group met in October 2018, December 2018 and then again in January 2019. During its meeting in December 2018, the group heard specific information on the regulatory process related to one company's efforts to get a rewards program approved in the states. He said, in January 2019, the group discussed that situation further, including another specific example. He said this sparked a theoretical debate on the purpose of the anti-rebating laws and if they are still needed. He said the Task Force's meeting at the NAIC/NIPR Insurance Summit will focus on that question, and he invited stakeholders to participate by sending written comments to Ms. Matthews by April 30 and indicating their interest in presenting during that meeting.

Last, Commissioner Godfread said that while a lot of time has been spent discussing the anti-rebating issue, the cancellation and renewal discussion has continued, as well, mostly focused on the "on-demand" product. He said North Dakota has implemented some exception language related to allowing on-demand coverage for drone liability, event cancellation and travel. He also reminded those interested in learning more about this on a state by state basis to contact the Innovation and Technology state contact posted on the NAIC's website.

5. Heard a Presentation on Innovation and Regulatory Challenges

Kevin Gregson (Plug and Play Tech Center—Plug and Play) provided information on Plug and Play and its mission. He said Plug and Play accelerates and invests in startups, match makes between startups and corporations, provides flexible co-working space, and hosts major industry events daily. He noted the technology trends Plug and Play is tracking, including AI and chatbots, automated underwriting, blockchain, claim efficiency, customer loyalty, telematics and cyber risk. He reviewed barriers to entry and game changers.

Mr. Gregson provided insights related to how startups view insurance regulation. He provided information on a survey Plug and Play conducted with its startups, noting that 85% of companies with a consumer-directed, market-facing business model, data services or companies engaged in consumer related data such as digital managing general agents, indicated that they were spending material money and resources on regulatory issues. Those not as concerned with regulatory issues were businesses engaged in mid-office or back office activities that are not customer facing, but largely engaged in streamlining processes or enabling more effective analytics or data ingestion. Mr. Gregson said 76% of the respondents indicated more dialogue and interaction with the NAIC, and state insurance regulators would be of value. He said Plug and Play would be happy to facilitate that type of dialogue and provide their resources and forums to encourage more constructive engagement between state insurance regulators and entrepreneurs.

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Commissioner Kiser asked if the startups considered themselves to be over-regulated and noted that there are examples of startups having a lack of understanding regarding the exposure they are taking on. Mr. Gregson said he would not characterize it as thinking they are “over-regulated” but more a situation where they have to spend considerable resources working through regulatory issues.

Commissioner Godfread indicated more interaction with the state insurance regulators may be helpful. Commissioner Lara said technology that would simplify things like forms and contracts should be encouraged, and startups should sit down with state insurance regulators to understand each other’s roles. Commissioner Ommen said the Iowa staff offer guidance to startups regarding early steps in the process. He suggested that resisting a more formalized process might be in their best interests. Commissioner Godfread said state variations actually provide flexibility as the states can be laboratories of democracy and offer options. Mr. Gregson said some of the perception from startups regarding the complexity of the state-based system comes from many having come from banking, where regulation is more centralized.

6. Heard Presentations from Guest Innovators

a. Markel Corporation

Scott Whitehead (Markel Digital) gave a presentation on Markel Digital’s InsurTech engagement. He said Markel Digital seeks to solve for insurance gaps not create them. He talked about why Markel Digital created a separate unit for this purpose and then explained Markel Digital’s partnership with Verifly Insurance Services (Verifly) to offer an episodic general liability policy. He said based on the growth of contingent workers, and, in particular, the “gig economy,” sole proprietors, new ventures and micro-businesses should all carry general liability coverage, but many do not. In partnering with Verify, Markel Digital can fill this gap. Mr. Whitehead provided an overview of the coverage enhancements, pricing approach, underwriting considerations, and the benefits to the insured, including showing what the app looks like on a mobile device. He reviewed the early statistics related to the product and the filing process, noting that the administrative burden of canceling at any time has been significantly reduced as a result of the technology.

b. AAIS

Robin Westcott (AAIS) provided an overview of the AAIS smart contract project using the AAIS’ open Insurance Data Link (openIDL) in partnership with IBM. She and Truman Esmond (AAIS) provided an overview of the platform and shared smart contract examples, including a data call drafted/issued, data submitted, consent to a data call and a report issued. Ms. Westcott said the AAIS would like to see the NAIC consider readdressing the NAIC *Statistical Handbook of Data Available to Insurance Regulators*, as well as use openIDL for a data call and explore additional uses for it. She said state insurance regulators should begin with thinking about what insights and questions they need the data to provide and answer as a first step in using this new platform for data calls.

7. Discussed 2019 InsurTech Events

Ms. Matthews provided a brief update on the events and various opportunities that are planned for members of the Task Force and state insurance regulators throughout the rest of 2019, starting with the CIPR event at the Spring National Meeting on blockchain, as well as events at Plug and Play, the NAIC/NIPR Insurance Summit, InsureTech Connect, and Innovation and Technology (EX) Task Force meetings.

Having no further business, the Innovation and Technology (EX) Task Force adjourned.

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Draft: 11/29/18

Innovation and Technology (EX) Task Force
San Francisco, California
November 17, 2018

The Innovation and Technology (EX) Task Force met in San Francisco, CA, Nov. 17, 2018. The following Task Force members participated: Patrick M. McPharlin, Chair (MI); Jon Godfread, Vice Chair (ND); Ted Nickel, Vice Chair, represented by J.P. Wieske and Zach Bemis (WI); Lori K. Wing-Heier (AK); Jim L. Ridling represented by Jerry Workman and Mark Fowler (AL); Keith Schraad represented by Erin Klug (AZ); Dave Jones represented by Lucy Jabourian (CA); Michael Conway represented by Peg Brown (CO); Katharine L. Wade (CT); Stephen C. Taylor (DC); David Altmaier represented by Warren Mills (FL); Doug Ommen (IA); Dean L. Cameron represented by Tom Donovan (ID); Jennifer Hammer (IL); Ken Selzer represented by LeAnn Crow (KS); Nancy G. Atkins represented by Patrick O'Connor (KY); James J. Donelon represented by Richard Piazza and Warren Byrd (LA); Gary Anderson and Rachel Davison (MA); Jessica Looman represented by Phillip Vigliaturo (MN); Chlora Lindley-Myers and Angela Nelson (MO); Bruce R. Ramage (NE); John Elias represented by Emily Doherty (NH); Marlene Caride (NJ); Barbara D. Richardson (NV); Jillian Froment and Amanda Baird (OH); John D. Doak and Tyler Laughlin (OK); Andrew Stolfi (OR); Jessica Altman represented by John Lacey (PA); Elizabeth Kelleher Dwyer and Paula Pallozzi (RI); Raymond G. Farmer (SC); Larry Deiter (SD); Julie Mix McPeak represented by Lorrie Brouse (TN); Todd E. Kiser (UT); Scott A. White represented by Vicki Ayers (VA); Michael S. Pieciak represented by Tanji Northrup (VT); and Allan L. McVey represented by Ellen Potter (WV).

1. Adopted its Oct. 15 and Summer National Meeting Minutes

Director McPharlin asked if there was any discussion regarding the Task Force's Oct. 15 and Summer National Meeting minutes. Mr. Wieske made a motion, seconded by Director Farmer, to adopt the Task Force's Oct. 15 (Attachment One) and Aug. 6 (*see NAIC Proceedings – Summer 2018, Innovation and Technology (EX) Task Force*) minutes. The motion passed unanimously.

2. Adopted the Reports of its Working Groups

a. Big Data (EX) Working Group

Commissioner Ommen said the Working Group met Nov. 15. During this meeting, the Working Group discussed data accuracy and company validation methods in accelerated/non-traditional life insurance underwriting, including a discussion about data being provided by new vendors and whether market conduct regulators have the tools necessary to assess these new activities.

Commissioner Ommen said the Working Group received an update from the Casualty Actuarial and Statistical (C) Task Force related to development of a white paper addressing sources of data, company selection of data, predictive models and final rate filings with the states and a report on the Executive (EX) Committee charge related to big data. NAIC management has completed a survey of the states regarding the appropriate skills and potential resources NAIC membership may need. He said the Working Group also received a report on the NAIC Legal Division's analysis of the methods and procedures to be followed by the states in sharing predictive modeling information to maintain applicable statutory confidentiality protections. He said the NAIC Legal Division will be reviewing the survey results to better understand what information might be shared and the desired mechanism to share this information prior to issuing its final analysis.

Commissioner Ommen said the Working Group received a report on the U.S.-European Union (EU) Insurance Dialogue Project and the recently published issues paper on big data. The paper discusses what data is collected, how it is collected, data portability, data quality, and how it is made available and used by insurers and third parties in the context of marketing, rating, underwriting and claims handling. Future work may include discussion of insurers' use of third-party vendors, disclosures to applicants and insurers' use of artificial intelligence (AI) models.

Commissioner Ommen made a motion, seconded by Mr. Wieske, to adopt the report of the Big Data (EX) Working Group (Attachment Two). The motion passed unanimously.

b. Speed to Market (EX) Working Group

Superintendent Franchini said the Working Group met Oct. 19 and took the following action: 1) adopted its combined Sept. 26 and Aug. 29 minutes, its combined Sept. 27 and Aug. 30 minutes and its Summer National Meeting minutes; 2) adopted the Speed to Market Survey; and 3) adopted a Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) bulletin. Superintendent Franchini said the Working Group discussed the Speed to Market Survey during its Sept. 26 and Aug. 29 conference calls. He said it discussed speed to market measurement tools during its Sept. 27 and Aug. 30 conference calls. He said the Working Group also adopted a survey to obtain data to evaluate the use of and need for specific speed to market tools and directed NAIC staff to distribute the survey before year-end to everyone who has a SERFF identifier.

Director Lindley-Myers made a motion, seconded by Commissioner Godfread, to adopt the report of the Speed to Market (EX) Working Group (Attachment Three). The motion passed unanimously.

3. Adopted the MACRA Bulletin

Superintendent Franchini said the Speed to Market (EX) Working Group adopted the MACRA bulletin for optional state use. He said this optional bulletin says the state does not require Medicare supplement (Medigap) insurers to refile the “outline of coverage” form if the only change is the updated Medigap chart (as adopted by the Senior Issues (B) Task Force in 2016). Further, he said it is important to note that the bulletin does not apply to all states such as carve-out states, states that would require a form number change or states that have not yet adopted the revisions to the *Model Regulation to Implement the Medicare Supplement Insurance Minimum Standards Model Regulation* (#651) to conform to MACRA. The Working Group adopted the draft bulletin for any state wanting to use it.

Superintendent Franchini made a motion, seconded by Commissioner Doak, to adopt the MACRA bulletin (Attachment Four). The motion passed unanimously.

4. Heard an Update on Cybersecurity Initiatives and Implementation of Model #668

Director Farmer said the *Insurance Data Security Model Law* (#668) was adopted by the NAIC membership in October 2017. He said state insurance regulators are dedicated to developing the necessary tools to ensure consumers are protected from data breaches, in an industry at high risk of being targeted by bad actors, noting that Model #668 is the best way states can lead in this effort.

Director Farmer said South Carolina was first to enact Model #668 and is in the middle of its implementation. He said, as part of the rollout, the South Carolina Department of Insurance has held several educational sessions for various industry groups, which has given these groups an opportunity to ask any questions they have about applicability, implementation and enforcement. He said in these sessions the data security requirements found in the law are emphasized.

Director Farmer said South Carolina has created a web page dedicated to providing resources for compliance with the new law and, on the web page, information is provided including a link to the new law and the key implementation dates by which licensees need to comply with the various provisions of the law. He said the first bulletin answered questions about applicability of the law, what it does and when it is effective; the second bulletin addressed the process for reporting a cybersecurity event and provides guidance regarding what constitutes a cybersecurity event; and the third bulletin provides more information on exemptions from the law’s information security program requirements and reminds licensees qualifying for an exemption that they must still comply with other provisions of the law.

Director Farmer said enacting Model #668 remains a high priority for the NAIC and he encouraged other states to enact it. He said the U.S. Department of the Treasury (Treasury Department) has endorsed Model #668 and recommended other states follow South Carolina’s lead and enact it promptly, in order to achieve uniformity in data security regulations. He said if this does not happen within five years, the U.S. Congress will act by passing legislation setting forth uniform requirements for insurer data security.

Director Farmer said the work the South Carolina Department of Insurance has done to date has been in conjunction with the NAIC's Legal Division staff and he would suggest that as states plan to introduce this critical data security and breach notification legislation, they contact the Legal Division for assistance. He also said South Carolina adopted Model #668 close to "as written" and he suggested other states do the same. He said he is aware of members from the industry approaching the states recommending changes to the model that would "emasculate" the bill and defeat the goal of achieving uniformity, so he encouraged the states to adopt it as written.

Ethan Sonnichsen (NAIC) provided an update on the federal legislative outlook for cybersecurity. He said the midterm elections have changed the outlook somewhat. He said it continues to be a hot issue and there is bipartisan support in Congress for something to be done. He said technology firms and the financial sector want a uniform national standard for data security and breach notification to be a ceiling that would limit how far the states could go with their own rules, while consumer advocates and states want a floor the states can build on.

Mr. Sonnichsen said, specific to the insurance sector, there is U.S. Rep. Blaine Luetkemeyer's (R-MO) Consumer Information Notification Requirement Act (H.R. 6743), which would establish a national standard that would effectively reduce the role of the insurance commissioner to enforcement solely by an insurer's domestic regulator. There would be multistate enforcement of data breach notification by insurance regulators with affected customers in their state. Mr. Sonnichsen said the NAIC, as well as other state groups—including the National Governors Association, the National Conference of Insurance Legislators (NCOIL), state bank supervisors and some state attorneys general—opposed this bill.

At the committee markup, U.S. Rep. Maxine Waters (D-CA), who is likely to be the new chairman of the committee next year, voiced her opposition to preemption of state data security/breach standards. He said she offered an amendment to strike those provisions from the bill, which was defeated on a party line vote. He said, under Rep. Waters' chairmanship, a bill could look much different from what advanced in the U.S. House of Representatives' Financial Services Committee this session; however, there are multiple committees beyond financial services that have jurisdiction over cyber that could also shape the legislative direction.

Mr. Sonnichsen said, on the U.S. Senate side, the Committee on Commerce, Science and Transportation held hearings this fall focusing on consumer data privacy, including discussions on the EU's General Data Protection Regulation (GDPR) and recent state data privacy laws. He said, in terms of legislation, chairman U.S. Sen. John Thune (R-SD) has signaled an inclination toward establishing a national standard for consumer data privacy. The Senate Committee on Banking, Housing and Urban Affairs has also indicated that this issue will be a major focus.

Mr. Sonnichsen said the NAIC message has been that any federal legislation should not disregard the existing state-based insurance regulatory framework or result in any type of broad preemption of state authority. He said, separate from federal legislative action, Commissioner Taylor participated on behalf of the NAIC in a Congressional Cybersecurity Caucus briefing where he shared the state insurance regulatory perspective on the cyber insurance market and its oversight. Additionally, he said the Federal Trade Commission reached out to the NAIC to create a fact sheet for small businesses regarding the role of cyber insurance in helping mitigate losses resulting from a cyberattack.

Mr. Sonnichsen said Director Farmer and the NAIC continue to be active members of Treasury Department's Financial Banking and Information Infrastructure Committee (FBIIC) and have collaborated with the Treasury Department on insurance sector cyber tabletop exercises. He said the FBIIC has shifted from coordinating national disasters and infrastructure to cybersecurity. He said this has been elevated to the primary area of focus, noting that the next tabletop exercise will engage with small and medium-size insurers.

5. Heard an Update on Task Force Activities and Deliverables

Commissioner Godfreed said a small group was formed to look at: 1) anti-rebating laws; 2) notice of cancellation/renewal issues; and 3) issues around e-signatures. He then asked Casey McGraw (NAIC) to brief the Task Force on this project.

a. Anti-Rebating, Cancellation/Renewal and E-Signatures Issues

Mr. McGraw gave an update on the NAIC Legal Division's research regarding the states' adoption of, and issues related to, anti-rebating, cancellation requirements and electronic signatures. He said the Legal Division reviewed each state's laws in these three areas and essentially cataloged the results, with the end goal of creating something like the NAIC's *Compendium of State Laws on Insurance Topics* that can be used as a resource moving forward.

Mr. McGraw said, with respect to cancellation requirements and electronic signatures, the Legal Division found that the laws seem to be fairly consistent on these topics across the board. With respect to cancellation requirements, he said the statutes are consistent in requiring adequate notice be provided to insureds at the time of cancellation or nonrenewal, noting that at least four states currently permit notices of cancellation to be provided electronically as opposed to mail or some other form of physical delivery.

Mr. McGraw said the statutes regarding electronic signatures are also consistent, mainly because 47 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands have all enacted the Uniform Electronic Transactions Act (UETA.) He said the three states that have not enacted UETA have all enacted similar laws making electronic signatures legally enforceable in their jurisdictions.

Mr. McGraw said, with respect to rebating, however, there is not as much consistency. He said, historically, anti-rebating laws were put in place in order to help ensure solvency while also leveling the playing field for insurers by preventing unfair trade practices and unfair discrimination, noting that the laws currently on the books track or closely mirror the language contained in the *Unfair Trade Practices Act* (#880). He said Model #880 basically provides that no insurer, agent, broker or producer may pay an insured any rebate of premium, provide any special favors, or provide any valuable consideration not specified in the policy as an inducement to purchase a policy. He said even though rebating is largely prohibited, many states have carved out a wide variety of exceptions to the law, most of which tend to focus on the ability of insurers and agents to engage in certain promotional or advertising activities without running afoul of the law.

Mr. McGraw noted some of the exceptions. He said some are contained within the statutes, but many others are contained within bulletins and other resources promulgated by the states over the years. He said while the guidance is helpful, feedback received has been that the age of some of the bulletins and other available guidance are giving insurers, InsurTechs, startups and regulators pause, as this is a fast-growing segment of the insurance industry and the process of reconciling these developments with dated rebating laws and bulletins is becoming a challenge.

Mr. McGraw said Legal Division staff found there is a lack of uniform, regulatory guidance on this issue and most, if not all, of the bulletins and other resources located and reviewed tend to focus on the financial limits in place when offering promotional or advertising type materials to insureds or potential insureds while also limiting the types of “value added services” that may be offered, as well. He said Legal Division staff will continue to monitor these issues and report back to the Task Force as requested.

Commissioner Godfread said the model laws are pretty consistent, but it is the way they are implemented state to state that varies. He said it is not the “bright line” issues that are difficult, but the gray areas related to value-added services such as telematics and smart home devices and how they interplay with the policy, the consumer and the state insurance departments. He said the goal is to develop some best practices or guidance that can assist the states in bringing more consistency in those gray areas, which is an area that is growing at a fast pace, so there can be more consistency for those who want to test these waters.

Mr. Wieske said Wisconsin did some work on unfair inducement and potentially making some changes to laws. He said the department received differing viewpoints but did not see a lot of consumer harm. He said there was a lot of “jockeying” regarding competitive concerns.

Superintendent Dwyer said Rhode Island has struggled with this issue, as well, and strongly supports this project, bringing together the viewpoints and discussing what will benefit consumers.

Mr. Laughlin said Oklahoma believes it is important to consider whether the inducements reduce, and if they are directly tied to, risk such as an application that shuts off water, thereby preventing damage and a claim. He said evaluating it with that as a basis is an idea being considered in Oklahoma. Commissioner Richardson said that is how Nevada is evaluating these, as well.

Commissioner Godfread said it is a “chicken and egg” issue, because these companies need the data to prove the devices can mitigate risk, so the goal is to try to produce some guidance for how the states can move this forward. He said it may not be top-of-mind for many regulators but is considered a barrier, so it would be helpful to address it.

Commissioner Godfread requested regulators and industry parties facing these issues bring the specific problems forward to the small group. He said that would help the group develop guidance.

b. NAIC State Innovation and Technology Contacts

Denise Matthews (NAIC) provided an update on the work completed since the Summer National Meeting regarding collecting state innovation and technology contacts and publishing them on the NAIC's website. She provided a demonstration of the new Innovation and Technology web page that includes a link to select a particular state to find the appropriate contact for discussing innovative products and services. She also walked through the new innovation and technology topics pages included demonstrating how to get to additional information and resources on each. She indicated the content will be expanded over time to include more than what currently exists on the Center for Insurance Policy and Research (CIPR) site and said staff are looking forward to working closely with the newly named contacts and the smaller group that met in October to discuss the workstreams of the Task Force.

6. Heard Presentations from Guest Innovators

a. John Hancock

Brooks Tingle (John Hancock) gave a presentation on John Hancock's Vitality life insurance product. He said it was launched for a variety of reasons, including caring about the life expectancy of its policyholders, understanding longevity is heavily influenced by the choices people make, the life insurance industry being in a unique position to influence those choices and the opportunity to revitalize a product that is losing relevance. He reviewed these choices and the impact they have on life expectancy and then reviewed the Vitality product and how it helps the policyholder know their health, as well as how to improve it, including a rewards system for doing so.

Mr. Tingle talked about how much John Hancock's customers like the product and how it has improved engagement. He reviewed the Vitality GO and the Vitality PLUS products, as well as John Hancock's partners involved in making the products available. He said all of this and the information the consumer chooses to make available to them is completely optional, noting that in every study it has done, the research shows consumers prefer this product. He said John Hancock believes so strongly in this product that it will make it a part of every policy sold going forward, whether it is the Vitality GO product, which does not integrate with the policy itself, or the Vitality PLUS product that can lead to premium discounts.

Mr. Tingle said John Hancock will continue to evolve the product to reflect the latest developments in medical science and consumer technology, as well as drive continual improvements in customer engagement and the purchasing process for life insurance products.

b. Plug and Play Tech Center

Noorjit Sidhu (Plug and Play Tech Center—Plug and Play) said Plug and Play began with two assets: a rug shop and luck. Four of the original startups that joined Plug and Play were Google, Logitech, PayPal and Danger (which later developed the Android operating system). He said Plug and Play grew from there with the mission statement of "innovation should be open to anyone, anywhere."

Mr. Sidhu said Plug and Play makes early stage equity investments, accelerates and invests in accelerator programs for startups, matches startups and corporations, provides flexible coworking space and hosts major industry events daily. He said Plug and Play was founded in 2006 and has successfully launched InsurTech locations all over the world. Mr. Sidhu reviewed Plug and Play's innovation platforms, explained the corporate and startup aspects of its ecosystem and how the sourcing process works.

Mr. Sidhu said InsurTech vertical was launched in 2016, and it has quickly gone on to be its largest vertical measured by the number of partners and investments being made. He said Plug and Play breaks this vertical down by product innovation, new sources of risk and disruptive ideas. He explained each, as well as pointed out how the more than 15,000 startups part of Plug and Play's system tend to overlap. He said Plug and Play has focused primarily on the property/casualty side in the past but has seen growth in the life and health side.

Mr. Sidhu said Plug and Play is seeing a trend toward incremental product innovation, addressing new sources of risk by providing new types of data that mitigates risk. He said the companies that are producing disruptive ideas, including many managing general agents (MGAs), are looking to disrupt the insurance space. He reviewed the trends Plug and Play has seen over the past few years and how it has changed from batch to batch, barriers to entry and how each is changing over time, emphasizing the importance of the dialogue between startups and regulators.

Director McPharlin said Mr. Sidhu identified regulation as a barrier to entry for some of these startups and asked if there was a best way for regulators to engage to minimize those barriers and communicate better on how startups can comply. Mr. Sidhu said participation inside and outside of the Plug and Play events continues to be important and the regulators tend to be underrepresented. He said just being a part of that ecosystem matters and publicizing that, making it more visible in terms of what has been learned, is important.

Ms. Jabourian asked about genomic data, not specifically for use on the rating side but in terms of using it as an opportunity for not accepting risk. Mr. Sidhu said there is a lot of interest in how it works and how it can be leveraged in underwriting and understanding risk, as well as in improved pricing; however, most companies are not ready to pilot anything just yet. He said companies are interested in how it can help them to understand the types of consumers they may want to market to in general, particularly in the life insurance space.

Mr. Laughlin asked if jurisdictions outside of the U.S. tend to be more favorable toward these innovations, particularly in the area of speed to market and, if so, he asked what the differences are between the regulations in those jurisdictions and the U.S. Mr. Sidhu said he did not know if anyone had done any research by geography around that issue, but he said with respect to the regulatory environment, what has been heard is kind of on a crowdsourced basis. He said Plug and Play has heard the regulatory environment for startups in, for example, Singapore is much more favorable than in, for example, Beijing.

Mr. Sidhu said MGAs—like a company called WorldCover created in New York selling parametric insurance in Kenya, Ghana and Uganda—have told Plug and Play, at least anecdotally, the time to execute a reinsurance treaty in these jurisdictions is much slower than, for example, launching an MGA in the U.S. Mr. Sidhu said that is, in part, due to the learning curve. He said the fact that startups in these communities are not doing any outreach with the regulatory community means most of the knowledge is on a trial-and-error basis, which heightens the time it takes to scale within those countries. He said companies within the U.S. can sell some of these products faster than, for example, Africa, but said he is not sure about the United Kingdom and Asia.

Birny Birnbaum (Center for Economic Justice) asked if Plug and Play is working with startups in regtech that would assist state insurance regulators with tools to regulate better and more efficiently, and if startups are emerging with products that assist consumers with greater control over their data. Mr. Sidhu said regtech is currently a monumental space in terms of investment and interest. He said Plug and Play invested in a company called BigID two years ago, which was doing fine, but then the European Union's General Data Protection Regulation (GDPR) became mainstream and there was increased interest in funding a startup like that. He said companies that help with data privacy or help from a regulator perspective are very interesting to Plug and Play.

Mr. Sidhu also said what Plug and Play has found is that startups are trying to encourage consumers to share more data, as opposed to offering the ability to restrict how much is produced. He said that is seen more in the cybersecurity space. Those companies are telling consumers where they should and should not share their data. He added that many insurance and financial services companies more broadly understand that the best way not to be hacked is to not collect the data in the first place. Mr. Sidhu said, for the most part, unless cybersecurity becomes a more mainstream restriction to the early-stage startup community, he would imagine more data will continue to be produced and proliferated, as opposed to there being restrictions around subtracting or minimizing data collection.

c. Farmers Insurance Group

Victoria McCarthy (Farmers Insurance Group—Farmers) provided an overview of Farmers' new rental product called Toggle. Ms. McCarthy said Farmers was able to bring this product to market in record time, having just begun the process in March 2018, when Farmers' chief executive officer created a new division within Farmers called Toggle. The group was tasked with identifying gaps in the market and developing solutions to resolve those gaps. They came up with a need for a renter's insurance product for millennials. She said there are 76 million millennials today, noting that most of them rent and most of them do not have renter's insurance. Ms. McCarthy described the product and the Toggle team.

Ms. McCarthy then demonstrated the product, starting with the quote flow. She said the product allows consumers to select whatever best fits their needs and includes protection on the road that will take away surprises and losses related to travel. She said Farmers also offers pet insurance and a reward feature, so consumers can be rewarded for paying premium and paying their rent on time. Ms. McCarthy said there is also a feature for "side hustle" or side job coverage and identity theft. She said once the quote is provided, they can select whether they want basic, standard or premium and can toggle up and down in coverage.

Director Hammer said the Illinois Division of Innovation & Technology provided quick speed to market for the Toggle product. The division was contacted by Farmers in June and the product was approved in October. She said there was some interest in setting up a sandbox, but the legislature was not receptive to that, so it was decided that it would be done more by policy within the insurance department. She said it provides an entry point for companies to come in and talk about their product and what they would like to do. She said they are invited to come in during the early stages so they can talk about objectives before the filing is put in the NAIC System for Electronic Rate and Form Filing (SERFF), so there is a good understanding of the compliance issues.

Director Hammer said Toggle gave the department an opportunity to test its process and make sure it worked properly. She said if there are issues, desk drawer rules or other requirements not in regulation missing, the department is willing to change the checklist before the SERFF filing is made. She said this creates a competitive playing field, as the change is published and distributed to all insurers.

Mr. Wieske said the Wisconsin commissioner has broad authority if the department does a finding, noting that it holds a public hearing if the finding indicates there is no harm to the market at large if the department simplifies the process. He said the department has some guardrails in place, but they are a little more ad hoc than Illinois. He said the department pulls together the appropriate people to talk through what the company wants to do and if, in fact, there is a need for some type of waiver from a statutory perspective. He said there is often a perception that there is a regulatory barrier when there is not.

Mr. Wieske said once a plan is established and the department is certain there is no consumer harm, a public hearing will be held if necessary. He said there must be a clear plan for how to get out of the sandbox when the time comes, including a step-by-step process for how a consumer who purchases the product is protected. He said the department will keep certain pieces of the process confidential, if necessary, adding that the process went smoothly with Farmers.

7. Discussed October InsurTech Events

Ms. Matthews provided a brief update on the events and various opportunities that were made available to members of the Task Force and state insurance regulators throughout the last part of 2018, starting with the CIPR event at the Summer National Meeting titled, "Can Regulation Keep Up with Innovation?" She said the NAIC coordinated with the InsureTech Connect conference organizers to hold a regulator/InsurTech session on the front end of that conference. She also updated the Task Force on the Plug and Play InsurTech reception, the Autonomous Vehicle Forum, the NAIC and Stanford University Cybersecurity Symposium and the Silicon Valley InsurTech Day held in California the second week of October. She noted the value and a few specific takeaways from those events.

Having no further business, the Innovation and Technology (EX) Task Force adjourned.

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Draft Pending Adoption

Attachment Two
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Draft: 4/17/19

Big Data (EX) Working Group
Orlando, Florida
April 6, 2019

The Big Data (EX) Working Group of the Innovation and Technology (EX) Task Force met in Orlando, FL, April 6, 2019. The following Working Group members participated: Doug Ommen, Chair (IA); Elizabeth Kelleher Dwyer, Vice Chair (RI); Lori K. Wing-Heier (AK); Jerry Workman (AL); Ken Allen and Rachel Hemphill (CA); George Bradner and Wanchin Chou (CT); Stephen C. Taylor (DC); Trinidad Navarro and Frank Pyle (DE); Erin VanSickle (FL); Judy Mottar (IL); Rich Piazza (LA); Al Redmer Jr. (MD); Tim Schott (ME); Karen Dennis (MI); Martin Fleischhacker, Phillip Vigliaturo and Fred Andersen (MN); Chlora Lindley-Myers and Angela Nelson (MO); Mark McGill (NJ); Barbara D. Richardson (NV); Jillian Froment (OH); Andrew Stolfi and TK Keen (OR); Michael McKenney (PA); Kendall Buchanan (SC); J'ne Byckovski (TX); Tomasz Serbinowski (UT); Michael S. Pieciak represented by Christina Rouleau (VT); and Mike Kreidler represented by AnnaLisa Gellermann (WA).

1. Adopted its Feb. 25 Minutes

Commissioner Ommen said the Working Group met Feb. 25 and took the following action: 1) adopted its 2018 Fall National Meeting minutes; and 2) discussed its 2018 workstreams and 2019 charges.

Director Froment made a motion, seconded by Ms. Nelson, to adopt the Working Group's Feb. 25 minutes (Attachment Two-A). The motion passed unanimously.

2. Received a Report from the Casualty Actuarial and Statistical (C) Task Force

Mr. Piazza said the Casualty Actuarial and Statistical (C) Task Force continues to invite coordination with the Working Group to: 1) draft and propose changes to the *Product Filing Review Handbook* to include best practices for the review of predictive models and analytics filed by insurers to justify rates; 2) draft and propose state guidance for rate filings that are based on complex predictive models; and 3) facilitate training and the sharing of expertise through predictive analytics webinars.

Mr. Piazza said since the 2018 Fall National Meeting, the Task Force exposed a white paper, *Regulatory Review of Predictive Models*, on best practices and providing guidance to the states. He said the purpose of the white paper is to identify best practices state insurance regulators could consider when reviewing a rating plan submitted to the state that includes a complex model. In addition, he said the white paper will include the information state insurance regulators may need to meet the objective of a best practice.

Mr. Piazza said 18 comments were received. Eight were received from the states and 10 were from the industry. Mr. Piazza said while there was general support for the white paper and agreement, best practices are beneficial if done correctly. He said concerns were expressed regarding whether the identified are too burdensome. He said some comments stated that a one-size-fits-all approach is not realistic, and many states already have reasonable methods and requirements for reviewing models.

Mr. Piazza said the volunteer drafters have mapped the comments to the relevant portions of the white paper and will recommend changes, which will then be re-exposed for public comment.

Mr. Piazza said there are four policy issues raised by the white paper on which the Working Group can assist the Task Force. These issues include: 1) confidentiality concerns; 2) broadening the scope beyond generalized linear models used in auto and homeowners rate filings, and into other insurance operations such as underwriting and claims; 3) causality versus correlation and whether correlation is all that should be considered; and 4) transparency for consumers on what data is used, how it is used, and its impact on premium.

Commissioner Ommen said the Working Group continually hears the need for state insurance regulator training. He noted that the organizers of the Global Insurance Symposium (GIS) have agreed to pilot training on big data analytics, and the NAIC has agreed to fund state insurance regulators to attend. He said 70 state insurance regulators will be attending.

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Commissioner Ommen said, on March 14, he and Superintendent Dwyer gathered a group of state insurance regulators who have been working on big data issues for a meeting in Kansas City, MO. He said the goal of the meeting was to determine what the real needs are for the state insurance departments. He said he values the feedback of all interested parties.

3. Heard a Report on NAIC Staff Recommendations

Andrew J. Beal (NAIC) said, on April 17, 2018, the Executive (EX) Committee directed: 1) NAIC management to “conduct research on the appropriate skills and potential number of resources for the organization to help NAIC members in coordinating their reviews of predictive models”; and 2) the NAIC Legal Division to prepare a memorandum analyzing “methods and procedures to be followed in sharing predictive modeling information in order to maintain applicable statutory confidentiality protections.”

Mr. Beal said he would update the Working Group on the first directive to determine the appropriate skills and resources for the NAIC to help its members coordinate their reviews of predictive models. He noted that the NAIC Legal Division is continuing its work on the second directive, and their recommendations will be made at another time.

Mr. Beal said over the past few months, NAIC management has had several conversations with various members of the Working Group regarding the needs of state insurance regulators in reviewing and sharing information with other state insurance regulators about predictive models. He noted that reviewing predictive models would be limited to technical assistance and support, including predictive risk correlation, actuarial review and experience, and education and training. He said the NAIC would not be exercising any regulatory authority, nor attempting to expand or redefine existing laws or regulations. As an example, he said the NAIC might identify data elements used in a model, such as education and income, but would not comment on the appropriateness of the use of such data.

Mr. Beal said NAIC management has developed the following recommendations for achieving the Executive (EX) Committee’s first directive:

- 1) The NAIC should hire a technical staff resource (one full-time employee initially, but this may be increased if needed) to provide technical support for state insurance regulators, including predictive risk correlation, actuarial review and experience, as well as education and training.
- 2) The NAIC should develop a tool, such as a database, for state insurance departments to share information with other state insurance departments about their review of models.
- 3) The NAIC should develop and implement an education and training program for state insurance regulators. Separate training, as needed, will be developed for actuaries and front-line rate and form review staff.

Regarding hiring a staff resource to provide technical support to state insurance regulators, Mr. Beal said the NAIC would move forward to identify the appropriate skills and experience for the position. He said once the position specification is finalized, the NAIC would post the position and begin recruiting candidates.

Mr. Beal said the primary of purpose of the NAIC developing a state insurance regulator tool and/or database is for state insurance regulators to share information about models with their colleagues in other states. He said NAIC staff are currently conducting research and analysis on this project. He said the work on this project will be guided by the NAIC Legal Division’s work currently underway regarding the “methods and procedures to be followed in sharing predictive modeling information in order to maintain applicable statutory confidentiality protections.” He said once all of this work is completed, it is possible that a formal proposal, which may include a fiscal impact statement, will be presented to the Executive (EX) Committee for its consideration.

Regarding the development and implementation of a training program for state insurance regulators, Mr. Beal said efforts are already underway. He noted that a pilot training program is planned for the GIS, which is being held April 23–25 in Des Moines, IA. Additionally, a training program is planned for the NAIC/NIPR Insurance Summit, which is being held June 3–7 in Kansas City, MO. Mr. Beal said these two initial training programs will be evaluated to determine what changes or enhancements are needed for future programs.

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Mr. Chou noted that some larger companies have many data scientists working on their rating models. He said one full-time employee does not seem to be enough. He suggested consulting with some of the larger property/casualty (P/C) companies. Mr. Keen and Ms. Nelson expressed their appreciation and noted that the recommendations meet the three areas for which the Working Group requested assistance.

David F. Snyder (American Property Casualty Insurers of America—APCIA) said the recommendation for additional training for state insurance regulators is welcome, and he noted the work of the Working Group has gone a long way in making state insurance regulators more comfortable with the issues raised by the use of big data. He said companies have confidentiality concerns with the sharing of the rate models and analysis. He noted that this is intellectual property, and companies have large investments in them. Companies want state insurance regulators to have the information they need, but confidentiality is essential, so they look forward to working with the Working Group on this.

Regarding an NAIC resource providing technical assistance, Mr. Snyder said he fears the NAIC may inadvertently exercise authority at a level not authorized by the state. He said the position must be technical and careful not to become quasi-regulatory. He said he understands that this is a shared concern, and he looks forward to dialoging about the resource.

Birny Birnbaum (Center for Economic Justice—CEJ) said he is pleased to see movement on the recommendations. He noted that many states have access to actuaries and actuarial resources. He said the NAIC resource should complement these state resources and not replicate them.

4. Discussed Next Steps Regarding the Use of Data for Life Insurance Underwriting

Commissioner Ommen summarized the 2018 activity of the Working Group. He said the Working Group heard a presentation during the 2018 Summer National Meeting from Eric Sondergeld (Life Insurance Marketing and Research Association—LIMRA), during which he provided an overview of LIMRA's survey of insurance companies regarding the use of data in life insurance underwriting. In October 2018, the Working Group heard a presentation from Director Bruce R. Ramage (NE) on market conduct examination standards for life insurance underwriting.

Commissioner Ommen said these two presentations led to additional discussions during the 2018 Fall National Meeting on how the use of data models for life insurance underwriting has become more common as insurance companies move to eliminate the use of medical examinations and the collection of fluids. He said questions have been raised regarding whether these innovations warrant the development of additional regulatory tools, whether state insurance regulators should be examining vendors that are supplying data to insurers, and whether vendors are supplying similar data and models to multiple insurers. He noted the Life Actuarial (A) Task Force is focusing on the actuarial soundness of the new data being used and potential long-term solvency issues.

Mr. Andersen said accelerated life underwriting involves replacing medical exams and the collection of bodily fluids with information from data models similar to aspects of credit-based scoring. He said the Life Actuarial (A) Task Force is evaluating the actuarial soundness of the method for predicting mortality.

Mr. Andersen made a motion, seconded by Mr. Allen, that the Life Insurance and Annuities (A) Committee, through an existing working group or by appointment of a new working group, and in collaboration with the ongoing work of the Life Actuarial (A) Task Force, study the use of external data and data analytics in accelerated life underwriting, and draft and propose appropriate state guidance or best practices.

Mr. Birnbaum said he supports the motion for two reasons. He said the issues raised are issues of fairness and regulatory standards for pricing, underwriting and the treatment of consumers, and these should be addressed by the Life Insurance and Annuities (A) Committee. Secondly, he said it is important to identify the types of data that are used. He said there has been advances in the availability of genetic testing information, as well as the use of facial analytics, credit-scoring and driving records, etc. He said state insurance regulators need to know the types of data being used and how they are being used by insurers.

There was no further discussion, and the motion passed unanimously.

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5. Discussed the Use of Data for Claim Settlements

Commissioner Ommen said the Working Group is ready to move to the review of another area of regulatory concern in the use of big data. He noted that the 2017 work plan identified several areas to be reviewed, including the use of big data in claim settlements.

Mr. Keen supported looking more deeply into the use of big data in claim settlement practices. He said Oregon hears often from consumers who are uncertain how insurers are arriving at claim settlement amounts.

Ms. Nelson asked if claim settlement practices include looking into claim valuation software in addition to antifraud efforts. Mr. Chou supported examining claim valuation software. Commissioner Ommen said the Working Group may also elect to examine claim valuation software.

Peter Kochenburger (University of Connecticut School of Law) said claim settlement practices is an important area to look into, because claims are where the insurer's promise is tested. He noted that there is a line between models that determine valuations and models that predict behavior. He said he is concerned with the use of models for claims optimization, which evaluate the potential of settling a claim at a set amount based on the characteristics of the claimant. He believes this practice would be illegal in most, if not all, the states, and said it is worth examining whether it occurs.

Mr. Snyder said companies want to pay the fair value of a claim as quickly as possible. Technology has enabled many claims that were settled in a matter of days to now be settled within hours. He noted that antifraud statutes require companies to use models to identify and resist claims fraud.

Mr. Birnbaum said he supports looking into claim settlement practices. He said claim settlement practices and antifraud efforts are intertwined and use the same databases. He noted that claims databases are not subject to the protections of the federal Fair Credit Reporting Act (FCRA). He said that makes it incumbent on state insurance regulators to look into these issues. He said the Working Group should approach this with an open mind. The use of technology and big data has great benefits, but there are areas that need improvement.

Commissioner Ommen said there is consensus that the next area of review for the Working Group will be claims practices.

Having no further business, the Big Data (EX) Working Group adjourned.

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Draft: 4/4/19

Big Data (EX) Working Group
Conference Call
February 25, 2019

The Big Data (EX) Working Group of the Innovation and Technology (EX) Task Force met via conference call Feb. 25, 2019. The following Working Group members participated: Doug Ommen, Chair (IA); Elizabeth Kelleher Dwyer, Vice Chair (RI); Chris Murray and Mike Ricker (AK); Daniel J. Davis (AL); Rachel Hemphill (CA); George Bradner and Wanchin Chou (CT); Frank Pyle (DE); Stephen C. Taylor (DC); Michael Yaworsky and Sandra Starnes (FL); Judy Mottar (IL); Richard Piazza and Jeff Zewe (LA); Benjamin Yardley, Timothy Schott and Sandra Darby (ME); Ronald Coleman and Walter Dabrowski (MD); Karen Dennis (MI); Angela Nelson, Brent Kabler, Julie Lederer and Cindy Amann (MO); Gennady Stolyarov and Annette James (NV); Mark McGill (NJ); Jillian Froment, Angela Dingus, Rodney Beetch and Jana Jarrett (OH); Ying Liu (OR); Dennis Sloan and Shannon Kost (PA); Kendall Buchanan and Daniel Morris (SC); J'ne Byckovski (TX); Reed Stringham and Tracy Klausmeier (UT); Barbara Prentice, Kevin Gaffney and Rosemary Raszka (VT); and John Haworth and Eric Slavich (WA).

1. Adopted its 2018 Fall National Meeting Minutes

Ms. Nelson made a motion, second by Mr. Piazza, to adopt the Working Group's Nov. 15, 2018, minutes (*see NAIC Proceedings – Fall 2018, Innovation and Technology (EX) Task Force, Attachment Two*). The motion passed unanimously.

2. Discussed 2018 Workstreams and its 2019 Charges

Commissioner Ommen said the Working Group adopted a workplan in 2017, which helped guide the Working Group in 2018. He said this included the Working Group requesting the Casualty and Actuarial Statistical (C) Task Force to develop best practices for the review of predictive models and analytics filed by insurers to justify rates. The Working Group discussions also included a draft proposal on how to share state resources and information on these filings.

Commissioner Ommen said this led to a request of NAIC staff to conduct research into the appropriate skills and the potential number of resources required for the organization to address the needs of the NAIC membership in conducting their reviews of predictive models. He said NAIC staff conducted a survey of the NAIC members, and the responses indicated there would be a benefit if the NAIC could establish an electronic data storage and sharing mechanism, such as something similar to the System for Electronic Rate and Form Filing (SERFF).

Commissioner Ommen said the use of data in life underwriting was a focus of the Working Group in 2018. He said the Working Group heard a couple of presentations on this issue. He said the use of data models for life insurance underwriting has become more common as insurance companies move to eliminate the use of medical examinations and the collection of fluids. He said this is appealing to consumers. He said the Life Actuarial (A) Task Force is also reviewing this issue, noting that he has had an opportunity to discuss this issue with chair leading these discussions.

Commissioner Ommen said the workplan contains a long list of possible issues, including the use of data for fraud detection, marketing and claims settlements. He said he will be contacting regulator subject-matter experts and holding in-person meetings with them. He then asked if there are suggestions on how to prioritize future discussions of the Working Group.

In response to a question from Peter Kochenburger (University of Connecticut School of Law) about whether the Working Group would continue discussing the use of data in life insurance underwriting, Commissioner Ommen said the Working Group would continue discussing this issue.

Birny Birnbaum (Center for Economic Justice—CEJ) questioned if the Working Group would be able to address all the potential topics.

Commissioner Ommen said the Working Group would identify issues but would then refer many issues to the appropriate regulatory experts in other NAIC committees, task forces and working groups. He said the work products and outcomes would be coordinated with this Working Group.

Mr. Birnbaum said the Life Actuarial (A) Task Force was charged to review how the use of data might impact reserves but was not charged to review issues of unfair discrimination. He said the Working Group should review the issue of unfair discrimination through the use of data in life insurance underwriting.

Mr. Birnbaum said the use of data in claim settlements and fraud identification should be a priority. He expressed concern with the increased use of criminal history databases, which contain information on consumers who have been subjects of discrimination.

Jack Chaskey (Westmont Associates) suggested the Working Group review New York Insurance Circular Letter No. 1 (2019) regarding the use of external consumer data and information sources in underwriting for life insurance. He suggested the Working Group provide direction on the issues raised by New York through the development of a white paper.

Commissioner Ommen said he has had some helpful conversations with state insurance regulators on a number of these topics and asked any regulators who have an interest in these discussions to contact him or NAIC staff.

David Snyder (American Property Casualty Insurance Association—APCIA) thanked Commissioner Ommen for how the Working Group has addressed the issues and requested notice on new issues to be discussed. He said this would provide interested parties an opportunity to provide information on how the use of data is benefiting consumers.

Having no further business, the Big Data (EX) Working Group adjourned.

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