

NATIONAL COUNCIL OF INSURANCE LEGISLATORS  
FINANCIAL SERVICES & MULTI-LINES ISSUES COMMITTEE  
AUSTIN, TEXAS  
DECEMBER 11, 2019  
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) Financial Services & Multi-Lines Issues Committee met at the JW Marriott Hotel in Austin, Texas on Wednesday, December 11, 2019 at 5:30 p.m.

Representative Bart Rowland of Kentucky, Vice Chair of the Committee, presided.

Other members of the Committees present were:

Asm. Ken Cooley (CA)	Sen. Shawn Vadaa (ND)
Sen. Travis Holdman (IN)	Asm. Andrew Garbarino (NY)
Rep. Matt Lehman (IN)	Asw. Pam Hunter (NY)
Rep. Joe Fischer (KY)	Asw. Ellen Spiegel (NV)
Rep. Edmond Jordan (LA)	Rep. Tom Oliverson, M.D. (TX)
Rep. George Keiser (ND)	Del. Steve Westfall (WV)
Sen. Jerry Klein (ND)	

Other legislators present were:

Sen. Matt Lesser (CT)	Sen. Paul Utke (MN)
Rep. Chris Judy (IN)	Rep. Donna Pfautsch (MO)
Rep. Peggy Mayfield (IN)	Rep. Bruce Grubbs (MT)
Sen. Gary Dahms (MN)	Sen. Cale Case (WY)

Also in attendance were:

Commissioner Tom Considine, NCOL CEO  
Paul Penna, Executive Director, NCOIL Support Services, LLC  
Will Melofchik, NCOIL General Counsel  
Cara Zimmermann, Assistant Director of Administration, NCOIL Support Services, LLC

## QUORUM

Upon a motion made by Rep. George Keiser (ND) and seconded by Rep. Matt Lehman (IN), NCOIL Vice President, the Committee waived the quorum requirement without objection by way of a voice vote.

## MINUTES

Upon a motion made by Sen. Jerry Klein (ND) and seconded by Rep. Keiser, the Committee approved the minutes of its July 12, 2019 meeting in Newport Beach, CA without objection by way of a voice vote.

CONTINUED DISCUSSION ON DEVELOPMENT OF NCOIL INSURANCE  
MODERNIZATION LEGISLATION

Rep. Bart Rowland (KY), Vice Chair of the Committee, first noted that the consideration of the NCOIL E-Commerce Model Act, sponsored by Rep. Edmond Jordan (LA), will be removed from the agenda and will be discussed and considered at the NCOIL Spring Meeting in March.

**a.) Discussion on NCOIL E-Titling Model Act**

Del. Steve Westfall (WV), sponsor of the NCOIL E-Titling Model Act (Model), stated that the Model is simple in that it requires the Department of Motor Vehicles (DMV), or appropriate state agency, to develop or utilize an existing electronic vehicle titling system to process motor vehicle title transactions, including, without exception, salvage, junk and/or non-repairable titles. The system shall allow for the use of electronic signature and provide for the submission of all required and/or associated documents by electronic means.

Jim Taylor, VP of Auto Data Direct, Inc. (ADD), stated that it is amazing that for 20 years the automobile industry across the country, particularly in 18 jurisdictions, has had the opportunity to do electronic transactions of their titles. By that, they sell the car to the dealership, get on the computer, upload the information to the DMV electronically, make images of the documents and submit them to the DMV electronically, and the titles are issued with no paper and no problems. Unfortunately, the insurance industry has not had that opportunity and therefore the purpose of the Model is to bring the insurance industry and total-loss salvage title processing into the modern day world such that documents can be signed electronically, transmitted to the DMV electronically, titles can be issued and the cars can be sold at auction. The process is not new and has been used by multiple industries across the country and it is time for the insurance industry to get the same opportunity.

Mr. Taylor stated that what makes the process so unique is that it is very fast. Normally, if you are transmitting paper to a DMV via Fed-ex that can take several days and then the DMV has to open the package up, grade the paperwork, make copies, manually input the data into their own system, generate a title and send it back. That can take anywhere from 15 to 20 days depending on the speed of the DMV. With electronic processing, it can occur same day as it is that quick and efficient. The system is also accurate in the sense that the DMV personnel are not receiving paper forms and then re-entering that data into their database. Traditionally, the insurer or the dealer processing this creates an electronic file themselves, so they are doing the data input and providing the forms electronically either by true electronic forms or scanning the paper in and sending those scans. So, there is less data entry and error, so the titles get issued faster and more accurately.

Mr. Taylor stated that the entire process becomes more efficient. If you can imagine the millions of paper documents that are sent via Fed-ex between insurance carriers and DMVs every month to process salvage titles it is mind boggling. And when those papers get to the DMV, they ultimately have to get scanned into an electronic format anyway, so the process is essentially being entirely electronically based. Mr. Taylor stated that Florida took advantage of this process this year as it has had an electronic platform called Electronic Filing System that has been in place for 20 years. However, it was solely for the use of the automobile dealer industry. FL HB 1057 allowed that platform to be used by the insurance industry. Florida is somewhat unique in that it has third party vendors that actually work with the carriers and are the in-between for the carrier and

DMV. The FL Dep't of Highway and Motor Vehicles is current programming the system and it is looking like it will be implemented in June of 2020. Mr. Taylor stated that ADD is excited that the Model is something that can be considered by other jurisdictions, and thanked Del. Westfall for sponsoring the Model.

Frank O'Brien, VP of State Gov't Relations for the American Property Casualty Insurance Association (APCIA), stated that this issue is a win-win. Many DMVs across the country are in the process of updating their existing computer systems in order to comply with the federal government's real-ID Act requirements. That provides the industry and states with the opportunity to move the titling process into the 21<sup>st</sup> century and do what everyone is familiar with which is electronically transferring documents. There are a couple of technical issues in the Model that will probably need to be addressed in terms of referencing federal standards. This is a highly technical area, but it is also an area in which efficiencies would mean additional efficiencies for state governments, insurers which would ultimately benefit consumers.

### **b.) Discussion on NCOIL Rebate Reform Model Act**

Rep. Lehman, sponsor of the NCOIL Rebate Reform Model Act (Model), stated that the Model was drafted after the discussion this Committee had in July at the NCOIL Summer Meeting. The discussion included The Honorable Eric Cioppa, Superintendent of the Maine Bureau of Insurance and NAIC President, discussing the work he did in Maine to pass rebate reform legislation. The goal of the Model is to bring some uniformity to the world of state rebating laws. Rep. Lehman noted that he does not believe consumers complain about rebating, but it is rather something legislators, regulators, carriers, and agents discuss to make sure there is fair competition.

Rep. Lehman noted that Section 3 of the Model is focused on the agent community. Section 4 deals with value-added services and whether certain products offered by insurers would be considered an impermissible rebate. Rep. Lehman stated that the Model tries to make sure that the service is geared towards actual risk prevention/education/assessment/monitoring or control which is why the word "exclusively" is used. Section 5 of the Model deals with services provided that are either free or less than market value and whether they would be deemed an impermissible rebate such as back support of filing forms or loss control services that may have a dollar amount but are just included in the product. Rep. Lehman stated that no vote will be taken on the Model today and hopefully after hearing from the panel today, the Model will be ready for a vote at the Spring Meeting in March. Rep. Lehman noted that the NAIC is also working on this issue and he looks forward to working together.

The Honorable Dean Cameron, Director of the Idaho Department of Insurance and NAIC Secretary-Treasurer, stated that the NAIC appreciates Rep. Lehman bringing this issue forward and would love to work with NCOIL on the Model. Dir. Cameron stated that the majority of Insurance Commissioners are not really enforcing the existing rebating laws which is a sad commentary, but it is the reality. If there is not a consumer complaining about rebates or some other type of situation, Insurance Commissioners are not going out trying to enforce rebating laws. If there is something seen regarding taking rebates and paying for premiums or someone who has taken a more systemic approach where they are offering services for zero cost if the individual will by an insurance product then that becomes an issue of an illegal inducement under the Unfair Trade Practices Act (UTPA).

Dir. Cameron stated that most rebating laws have been around for 100 years. Many states have adopted the UTPA. Rebating laws were established because there was a situation in the country where agents were figuring out ways to sign people up for the product without them paying any premium and after one year they would drop off. There were some pretty horrific cases in Idaho where people went to prison after doing that. Dir. Cameron stated that it is clear to the NAIC that something needs to be done and its Innovation and Technology Task Force (Task Force) has begun to look at ways that current insurance laws are barriers to technology and rebating laws have been a focal point of that discussion.

There are a number of items where it makes sense to allow insurance companies to offer certain items such as wearables and pipe/flood monitors in homes. Those items should be allowable regardless of whether they meet a dollar threshold. However, it is important to be careful so as to not open the barn door so wide that people can go back to the days of creating an unlevel playing field by using commission dollars to pay for premiums and then if they sell a certain amount of business they demand a higher commission thereby creating solvency issues. In the long run, such a process is harmful to consumers as it causes the price of the product to increase. Dir. Cameron stated that the NAIC looks forward to working with Rep. Lehman and noted that some states have issued bulletins on rebates such as North Dakota. This is also a situation of being careful of what is asked for because currently, with the exception of wearables and other devices, rebates have not been a huge issue.

John Fielding, General Counsel for The Council of Insurance Agents & Brokers (CIAB), stated that CIAB appreciates NCOIL working on this issue and looks forward to submitting specific comments on the Model. CIAB's members are the largest brokers in the country and in the world and place over 90% of the commercial P&C in the country. Out of about the 170 million lives that are in employer-sponsored plans, CIAB's members sell or consult about 70% of those policies. Accordingly, CIAB comes from the commercial broker perspective – not the personal line or carrier perspective – as rebating laws affect CIAB's members differently. Mr. Fielding stated that from CIAB's perspective we are talking about business to business relationships – sophisticated entities working with each other and wanting to provide the best services at the best price. In the commercial space, the rebating laws are not protecting the consumer or solvency and are really all about turf protection. The laws protect CIAB's members from having to compete and in doing so they harm commercial consumers on price and by inhibiting innovation and service.

Mr. Fielding stated that CIAB believes the government should not pick winners and losers in this marketplace or tell consumers that they cannot get a deal. For those reasons, commercial brokers should be carved out from rebating prohibitions. More specifically, it is important to keep in mind going forward that the rebating laws apply directly to brokers and not by or through insurers with whom they might be working with. Brokers have independent obligations to comply with the law and brokers also have their own independent relationships with their clients, distinct and separate from the insurer-policyholder relationship and that has to be reflected in whatever Models are enacted. Those ongoing relationships began before placement and they can continue long after a policy is placed. The relationships are generally related to insurance coverage but they are not necessarily related to an individual or a specific policy, nor are they limited to the

specific list of areas that are listed in the draft Model such as loss prevention - the relationships can be broader.

An example is that the Affordable Care Act (ACA) was enacted ten years ago and it obviously brought about huge changes to the employer-sponsored marketplace and in dealing with that, CIAB's members had to do a number of things. Such members had to educate their clients, figure out what problems or opportunities the ACA created, and then help their clients make changes. The employer didn't know what to do so they looked to their insurance professionals to help them. Fast forward a few years and CIAB members are helping their clients comply with ongoing changes such as reporting requirements and COBRA administration and enrollment. CIAB has seen continued changes such as health reimbursement arrangement (HRA) and health savings account (HSA) rules where employers are looking to brokers to figure things out. Commercial brokers are looking to be flexible and they want the freedom to work with their clients just like all other parts of the markets do. That is why CIAB believes there should be a carve out for commercial brokers. Mr. Fielding stated that CIAB believes that this is a great opportunity to make the rebate laws that are over 100 years old reflect how the marketplace looks today.

Mr. O'Brien stated that NCOIL should be commended for taking action with respect to rebating laws and stated that this is a reflection of the NCOIL process. Ever since the 2017 NCOIL Summer Meeting, NCOIL has been taking a look at innovation and changes in the marketplace. Over the course of many sessions it became clear that there were going to need to be, or should be, a number of changes in state law in order to enable the provision of additional services and products that APCIA's customers are looking for. Rebating laws are a prime example of that.

One of the reasons why APCIA is involved in this discussion is that its customers, whether producers or insurers, are looking to APCIA to provide a certain level of expertise because they are the experts in the insurance business. As the marketplace evolves, people are beginning to say to APCIA "why can't you help me?" whether it be the provisions of information regarding the ACA or loss control services. APCIA has since offered some modest changes to the rebating laws so that APCIA's members could have the opportunity to buy loss control related devices and provide them to consumers in an effort to assist them. Mr. O'Brien stated that as APCIA went out into the states, it discovered that a lot of the rebating laws have been on the books for 100 years and have been weighed down with esoteric and somewhat ridiculous interpretations and have therefore lost all contact with their historic underpinnings. The laws did begin to prevent the practice of agents rebating premiums back to consumers, but they have now morphed into an area of where you come out with some goofy interpretations.

For example, in Massachusetts – which has one of the most restrictive rebating laws - the Insurance Commissioner at one point in time was required to opine that if you had a stress ball it was ok for the consumer to take the stress ball off the counter at the agency, but it was not ok for the producer to hand the stress ball to the consumer. That does not make sense. Mr. O'Brien stated that the Model consists of some language that APCIA offered for consideration, as well as the current Maine rebating statute. Mr. O'Brien stated that he worked with Maine Superintendent Eric Cioppa to enact said statute and although it is a good statute, both he and Supt. Cioppa would have liked to see it go further. The Model is a somewhat modest proposal that in APCIA's view tries

to deal with the issues surrounding the traditional marketing practices while at the same time attempting to put in place some certainty relative to loss control services and devices.

Mr. O'Brien stated that the Model is needed despite states developing bulletins on this issue because often times you can look at a statute which says one thing and the bulletin says another. Accordingly, the Model is an opportunity to provide certainty and clarity. One of the fundamental things that APCIA likes to do, which it hears from its members, is to know what the rules of the road are – this is a chance to define what some of those rules of the road are. Mr. O'Brien stated that APCIA does have some concerns with the use of the word "exclusive" and believes that the word "reasonable" may be better. The devil will be in the details with this issue. Mr. O'Brien stated again that NCOIL has been a leader on this issue and it has been noticed across the country that NCOIL is somewhere where insurance innovation is taken seriously.

Wes Bissett, Senior Counsel of Gov't Affairs for the Independent Insurance Agents & Brokers of America (IIABA), stated that at the outset, the agent and broker community is very diverse and IIABA has hundreds of thousands of members nationwide. Accordingly, IIABA does not have a unanimous perspective on this issue but there are some areas where there is general agreement. About five months ago, the IIABA submitted detailed comments to the NAIC on this issue and Mr. Bissett stated he would be happy to submit those to NCOIL as well. As a starting point, anti-rebating laws have and continue to serve a number of purposes one of which is, as cited by the insurance treatise, to protect the solvency of the insurance company as well as preventing unfair discrimination among insureds of the same class, protect the quality of service, avoid concentration of the market among a few insurance companies and avoid unethical sales. So, while there may not be a solvency benefit to the anti-rebating laws, there are still some other purposes that remain relevant today and meaningful. If the laws did not exist there would be the possibility for insurance players to perhaps absorb short term losses and offer products that arguably would provide a short-term benefit to consumers, but the long-term effects would be anticompetitive in nature.

Mr. Bissett stated that there has been a lot of productive activity at the state level over the past ten years or so regarding rebating and most of it has taken the form of regulations and bulletins. More recently, there has been some statutory action that focuses on some of the areas that the Model targets such as establishing monetary thresholds and/or allowing the types of meaningful risk mitigation products and services everyone has heard about. The statutes are somewhat narrow but states such as Arizona, New Hampshire, Pennsylvania and New Mexico have acted within the past couple of years. In PA, the recently adopted law enables agents and companies to provide offerings that relate to loss control of the risk covered by the policy. Arizona did something similar as well.

Mr. Bissett stated that he believes that Rep. Lehman has done a great job of not taking a chainsaw to anti-rebating laws but rather looking only at the areas that are in need of meaningful reform. Focusing on things like risk mitigation and things that are actually tied to the insurance transaction makes sense whereas offering things that really have no nexus to the insurance transaction may not be as warranted. Mr. Bissett stated that despite general consensus that something should be done to reform anti-rebating laws, the process of doing so may not be that easy. There are some complex, public policy issues involved here that will involve line-drawing in ways that might not be that easy.

Mr. Bissett stated that IIABA has the most concerns with Section 5 of the Model and the offering of things that are tangentially related to an insurance contract or the administration thereof. One thing to think about with that language is to make sure that the product offered in that instance cannot be conditioned upon some subsequent event happening such as buying insurance or appointing the person as an agent. IIABA has seen some things in the marketplace recently where people were playing games with those scenarios so there may need to be further focus and drafting in that area.

Birny Birnbaum, Director of the Center for Economic Justice (CEJ), stated that going by the comments from the panelists thus far one might think that insurers are unable to provide loss prevention services. However, insurers have been engaged in loss prevention with their policyholders for well over a century. Therefore, it is a bit of a misnomer to state that insurers are not able to provide loss prevention services. There are telematics services in the auto insurance industry and there are wearable devices that companies are using, and they are tied into the premiums that people pay. Mr. Birnbaum stated that what APCIA has proposed is a really a massive re-regulation of insurance rating under the guise of helping innovation. CEJ believes that the issues that need to be addressed can be addressed much more narrowly.

With regard to the Model, Mr. Birnbaum stated that CEJ recommends NCOIL working closely with the NAIC as they are working on this issue as well. The things that the regulators bring to the table on this issue are what tools they need to monitor these issues, and what kind of regulatory authority and resources are needed to make sure that the things everyone does not want to happen do not occur. Mr. Birnbaum stated that the term “value added service” should be removed from the Model – what is being talked about under that term are loss prevention services so they should in fact be called that. The term value added service is vague and could mean anything to anybody.

It is also very important to distinguish between products and services that have a rate impact and those that don't. For those not familiar with it, there is something called the filed rate doctrine which protects insurers from challenges to their rates or their policy forms from consumers if those rates and forms have been filed with the insurance department. Once an insurance company files a rate with the department, even if a consumer thinks that they are being gouged, they cannot challenge it because the legislature has vested with the regulator the authority to review those rates, which makes sense. If the Model opens up the ability to basically change what people pay for premiums by calling it a rebate, what's happening is that insurance companies are being opened up to rate challenges. CEJ does not want to see that as CEJ believes the regulatory structure makes sense and should not be disturbed.

Mr. Birnbaum stated that CEJ believes that the language in Section 5 regarding the service being “tangentially related” should be changed to “directly related.” Also, with regard to the language “...the services are offered on the same terms to all potential insurance customers” Mr. Birnbaum noted that if he is offering private flood insurance, and the loss prevention service being offered is a flood prevention device, is it sufficient to say that he is offering a flood prevention device to all potential customers when a customer with a low value home might get something worth \$150 and a customer who lives in a mansion might get something worth \$5,000?

Mr. Birnbaum further stated that the issue of unfair discrimination is real. As we enter into an era of big data, insurance companies have greater ability to identify not just the current value of a customer but also the lifetime value. Opening the door to all sorts of rebates and incentives to people who the insurer views as high value customers as compared to low value customers requires ensuring that the products are in fact offered equally to everyone. Lastly, Mr. Birnbaum stated that the large-scale brokerage industry is incredibly concentrated. Four brokers hold a tremendous market share and market power. The idea of unleashing those people to use their vast amount of resources to compete for business has already been realized – we have seen what happens. Fourteen years ago, the New York Attorney General entered into a \$100 million dollar settlement with one of the largest brokers for bid rigging which is not unrelated to the types of things that the rebate reform efforts could unleash. CEJ thanks NCOIL for its work in this area and again urged NCOIL to work with the NAIC to ensure that the complicated issues are addressed, and unfair discrimination is prevented.

Erin Collins, Asst. VP of State Affairs for the National Association of Mutual Insurance Companies (NAMIC), stated that NAMIC looks forward to working with NCOIL on this issue and believes that there are a couple of opportunities for some language changes that could offer some clarity and ease of use in terms of getting the mitigation services, especially value added services, to policyholders. NAMIC believes that there is enough specificity in Section 4 so that should a value-added service meet that definition then it should not go through another regulatory process contained with the filing. If it meets the standard within the statute, that should be sufficient. Ms. Collins complimented Rep. Lehman on making this issue a standalone bill rather than opening up different portions of the insurance code.

With regard to the intent and impact of the Model, it is important to note that there is nothing Machiavellian here – this is about trying to provide a value-added service and answering a call from consumers to have their insurers help them. The end game here is to reduce the risk of loss. Ms. Collins also noted that the lens within which we should look at this issue and other issues going forward when talking about the offering of any product to consumers, is that it is a misnomer that there is a protection gap. The insurance system has a series of products such that each consumer has the ability to choose a product that they want and the level of coverage they want.

Karen Melchert, Regional VP of State Relations at the American Council of Life Insurers (ACLI), thanked NCOIL for working on this issue thus far and noted that the life insurance industry comes at this issue with a different perspective because life insurers don't do a lot of risk mitigation or loss control services. Accordingly, ACLI has offered some proposed amendments to the Model. Regarding permissible gifts and prizes, ACLI's board policy has its threshold limit at \$100 on both raffles and gifts. While that may be too low for the P&C industry, there are certain products in the life insurance industry that do not even pay \$250 for the premium so if you can rebate them more or give them a gift that is worth more than the premium being paid that is not a wise decision.

The majority of ACLI's comments focus on Section 4 and while ACLI has no problem with the language put forth by APCIA, it does not go far enough to bring in certain types of value-added services. ACLI has proposed language "or that have a nexus to or enhance the value of the insurance benefits." Ms. Melchert noted that an example of value-added services that ACLI's members provide to its customers are will preparation

services, grief counseling services, repatriation of a body that passed away overseas, and financial wellness issues. All of those services are primarily assisting the beneficiary so anything that is not included in the contract but goes to enhance the experience of that policy is considered to be a value added benefit and ACLI's members would like to continue to be able to provide them.

Ms. Melchert stated that the issue of implementation credits should also be in the Model as ACLI believes that they should be distinguished and written in the contract. ACLI does not want the Model to be a method to do implementation credits without disclosing in the contract. ACLI has provided suggested language reflecting such. In Section 5 of the Model, Ms. Melchert stated that ACLI proposed language to clarify that the services contemplated by said Section do not otherwise qualify as permissible value added services in Section 4 because if you are offering something to everyone regardless of whether or not they purchase a product, that is not really a rebate. Ms. Melchert stated that ACLI appreciates NCOIL getting involved with this issue and looks forward to working with the Committee on this issue going forward.

Rep. Lehman thanked the panel for all of the comments made. With regard to Mr. Birnbaum's statement about how insurers have been engaged in loss prevention with their policyholders for well over a century, Rep. Lehman stated that the Model is trying to investigate the things that are common in today's marketplace. It is not so much to say what insurers can and cannot do but to stop some investigations that are going nowhere and to provide some common sense. With regard to Mr. Birnbaum's comment of how the term value added service should be called loss prevention services, Rep. Lehman stated that he believes there are many things added that are not loss prevention focused. For example, providing motor vehicle records (MVRs) for trucking risks for free is not really a loss prevention but rather a hiring practice. Insurance educational materials are also sometimes provided to clients. Accordingly, while the focus of that Section of the Model may be on loss prevention services, Rep. Lehman stated that he would not change the verbiage. Rep. Lehman stated that judging from the remarks made today it seems like the main issues to be resolved center around terminology. The Model is still a work in progress, and he looks forward to working on it to get it ready for final adoption.

Rep. Keiser stated that he supports Rep. Lehman on this issue and noted that North Dakota has enacted legislation on this issue in addition to recently issuing a bulletin. Rep. Keiser replied to Mr. Bissett's earlier remark and stated that there is no way every possible contingency would be put into statute – that is why we have insurance commissioners and that is why in legislation they are given authority to regulate and write administrative rules as things develop. Rep. Keiser stated that recently he was looking at a fairly old building for purchase and one of his concerns was how much insurance would cost. Rep. Keiser asked his agent to look at the building and see if there would be any problems with insuring it. That could be viewed as loss mitigation, but Rep. Keiser noted that he did not even own the building. Rep. Keiser stated that we cannot anticipate every possible contingency. In response to the comment made earlier by Dir. Cameron, Rep. Keiser stated that if the law is not being obeyed now then it needs to be changed.

Sen. Gary Dahms (MN) stated that he does not agree with Mr. Birnbaum's comment regarding how the term value added service should be changed to loss prevention service and noted that it is unfortunate that the Committee and panel is discussing the

issue as it is a case of splitting hairs. There are always bad actors in every industry but the majority in this industry are good actors and they are not conducting themselves in a manner referenced by the Model so as to pad their wallet – they are acting in that manner to help their insureds and keep costs down. If you do some loss prevention or value-added work and you prevent a claim, then that not only helps that specific insured but it also helps a lot of other people in that same classification/pool. Accordingly, it is frustrating to hear arguments over the terms value added and loss prevention as more important issues deserve consideration.

Dir. Cameron stated that the NAIC welcomes NCOIL's participation throughout the NAIC's work on this issue and noted that Mr. Birnbaum did make some good points, particularly in the big data conversation. Dir. Cameron stated that he does not believe that any Insurance Commissioner has enforced a law that prevents insurers from being able to provide services to their clients – that is not happening. Dir. Cameron also stated that the comment regarding the Massachusetts Insurance Commissioner and the stress ball shocked him. Through a text message exchange, the Massachusetts Insurance Commissioner stated that the stress ball situation is not factual and noted that Massachusetts was one of the first to allow for wearable risk monitoring devices. Dir. Cameron stated that Insurance Commissioners are trying to find solutions where they are helping the consumer and allowing the consumer to be protected and progress. Insurance Commissioners want to make sure there is no unfair discrimination and avoid going back to the era of rebating one's premium. Dir. Cameron noted that the NAIC is working on amendments to the UTPA and the plan is to have that done by the end of 2020. The NAIC looks forward to collaborating with NCOIL on this issue.

Rep. Lehman noted that during the meeting of the NAIC's Innovation & Technology Task Force earlier this week, Rep. Lehman stated that NCOIL would be more than willing to participate in the drafting group put together by the Task Force.

Mr. Birnbaum stated that from CEJ's perspective, words have meaning and when you go to a consumer and say "we have this great product with value added services" that does not tell a consumer very much. On the other hand, if you tell a consumer "we have an insurance product and I can provide a lot of loss prevention and risk mitigation services to you" – those words have meaning to a consumer. That is why CEJ brings this issue to the Committee's attention. CEJ does not mean to quibble about the issue but rather wants to ensure the consumer knows what he or she is getting.

## ADJOURNMENT

There being no further business, the Committee adjourned at 6:45 p.m.