

NATIONAL COUNCIL OF INSURANCE LEGISLATORS  
LIFE INSURANCE AND FINANCIAL PLANNING COMMITTEE  
CHARLOTTE, NORTH CAROLINA  
MARCH 6, 2020  
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) Life Insurance & Financial Planning Committee met at the Charlotte Marriott City Center Hotel in Charlotte, North Carolina on Friday, March 6, 2020 at 3:45 p.m.

Assemblywoman Maggie Carlton of Nevada, Chair of the Committee, presided.

Other members of the Committees present were:

Rep. Deborah Ferguson (AR)	Sen. Jerry Klein (ND)
Asm. Ken Cooley (CA)	Sen. Shawn Vadaa (ND)
Sen. Jack Tate (CO)	Sen. Bob Hackett (OH)
Rep. Jim Lilly (MI)	Rep. Tom Oliverson, M.D. (TX)
Rep. Michael Webber (MI)	

Other legislators present were:

Sen. Angela Williams (CO)	Rep. Garland Pierce (NC)
Sen. Paul Utke (MN)	Asw. Connie Munk (NV)
Sen. Valerie Foushee (NC)	Sen. Robert Ortt (NY)
Rep. Stephen Ross (NC)	Sen. Roger Picard (RI)

Also in attendance were:

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

## QUORUM

Upon a motion made by Asm. Ken Cooley (CA), NCOIL Vice President, and seconded by Rep. Michael Webber (MI), the Committee waived the quorum requirement without objection by way of a voice vote.

## MINUTES

Upon a motion made by Rep. Deborah Ferguson (AR) and seconded by Rep. Tom Oliverson, M.D. (TX), the Committee approved the minutes of its December 12, 2019 meeting in Austin, TX without objection by way of a voice vote.

## REFORMING THE LIFE INSURANCE APPLICATION PROCESS

Porter Nolan, Head of Legal at Ethos, stated that he is here today to provide some notes from the field from the perspective of being head of legal at Ethos, an insurtech that has been around for about three years. Mr. Nolan noted that the views he expresses today are his own and not necessarily those of the company. Mr. Nolan stated that the

challenges presented to an insurtech company startup can essentially be bucketed into three big groups: internal, external, and the legal/regulatory landscape. Mr. Nolan stated that he will mostly focus on the legal/regulatory landscape today. For purposes of that, he will focus on three main areas: licensing, subcontracting, and marketing.

With regard to licensing, Mr. Nolan stated that in some states Ethos has seen some time restrictions when applying for a license. For example, you have to have two years of audited financials which seems fairly innocuous and a reasonable requirement but at the same time that means just to engage in business in certain states you have to have been operating for two years so clearly that can be an impediment to getting started. It can create delays and there can be a chicken and egg problem if there are similar rules in each state how could you start and have two years of audited financials if you don't have a license to operate in all states. The chicken and egg problem is definitely real.

Similarly, there are capitalization requirements in some states whether it is minimum capitalization which can make it difficult for less funded entities to get started or requirements to show two years of consecutive positive net worth. The difficulty with that is that a lot of companies in their first year won't show positive net worth and even if you have to show two years of audited financials showing positive net worth, the important one would be in the second year. The first year being a startup year it is not unusual to take out loans or debt to get started. Again, that could kick out the timeline before you satisfy the requirement to three or possibly four years making it increasingly difficult to get licenses.

Mr. Nolan stated that for something like doctors and lawyers, regional licensing certainly makes sense based in a jurisdiction regulated locally by things such as bar associations, but a state-based system becomes inherently incongruous for tech companies that operate online. Mr. Nolan stated that he is not advocating for an overhaul – state licensing certainly makes sense – but the effort should be at more harmonization and consistency in the licensing rules because the difficulties previously mentioned are not present in each state. There have been efforts at this before with National Association of Insurance Commissioners (NAIC) model regulations or the Compact for purposes of products, but for licensing it is the lack of consistency that essentially benefits largely outside lawyers and consultants who advise on licensing requirements.

Mr. Nolan then turned to subcontracting difficulties. Several states have adopted language consistent with “An administrator may act only if there is a written agreement between the administrator and an insurer.” That certainly makes sense for the primary third party administrator (TPA) but the difficulty comes in if you want to subcontract a portion of the work. This has been interpreted in some states to say that a TPA may not subcontract its work to another licensed TPA but when you read the statutes there is not a strict restriction on doing that so it is the interpretation that seems to perhaps veer from the strict language of it. If you look at the secondary effects of this, it seems to have some unintended consequences. One is that you can then subcontract work to an unlicensed party but not to a potentially more qualified and licensed TPA. Arguably, if the design of the law is to protect consumers, it seems to have the opposite effect. The primary TPA is also then no longer responsible to oversee what was previously the secondary TPA. Perhaps if you subcontracted out underwriting to a different company, now you will have a consumer who works directly with you as the primary TPA because you may have been producer on the account but you have no relationship and

contractually no privity anymore with the other TPA that is providing different services because they now have had to contract directly with the carrier.

Turning to marketing regulations, Mr. Nolan stated that interestingly, the NAIC has a model regulation which states that “An advertisement shall not disparage other insurers, insurance producers, policies, services or methods of marketing.” The idea of that makes sense – what is good for the goose is good for the gander and we shouldn’t undermine the authority of life insurance business and we should maintain the public’s confidence in the industry. But arguably if you look at Coke vs Pepsi advertisements, there has arguably not been undermining of public faith in sodas. The argument is that of healthy competition – if anything that can draw more attention to life insurance, the benefit then is better knowledge for consumers and increased demand across the board. Some unintended consequences of this may be a chilling effect on commercial speech because there are certain things you are not allowed to say. It also impairs new player’s ability to distinguish themselves from historical industry practices. This issue is now under review with the NAIC’s EX Task Force and that is a positive development. Consistency across the board certainly reduces marketing costs because you don’t have to tailor ads to each state.

Mr. Nolan then provided some examples of statements that may run afoul of regulations depending on how interrupted by state regulators. “Traditional life insurance companies are slow to innovate.” Arguably that could be interpreted as disparaging. “Commissioned agents may not have the customer’s best interests in mind.” For companies like Ethos, it does not use commission-based agents. Reasonable regulators can disagree as to whether those statements violate rules which seems to bolster the argument that increased specificity in the law or even a removal of that provision would make sense. Part of the reason is also because there is already a rule in the NAIC marketing regulations that requires a duty of candor that all advertisements have to be honest. So, that seems to satisfy any underlying concerns. Mr. Nolan stated that the two options presented to an insurtech company would be to: roll the dice – state your value proposition and how it distinguishes you in the market and why it is different from certain industry historical practices or certain competitors but that comes with healthy risks in the form of time and money to potentially defend marketing conduct; or adopt a conservative approach which most companies seem to have done and it arguably stifles innovation as you can question whether there is a real customer benefit in you not being able to state certain value propositions. The result that most companies have taken is to comply with the strictest potential interpretation of these regulations.

Mr. Nolan stated that going forward, the most important thing for this committee and for legislators in general is to communicate with insurtechs and regulators through conferences, circulars, being able to submit questions on a no-name basis to departments of insurance and get timely responses. Some states have been outstanding with that and companies like Ethos appreciate that. Phased implementation and comment periods for new laws are also important such as what has happened with the California Consumer Protection Act (CCPA). The biggest takeaway is to consider second order impacts or effects and how they impact insurtechs or any new startup as opposed to how they impact legacy players.

Asw. Carlton stated that she understands where Ethos is trying to go with regards to being able to make certain statements but she would not compare buying life insurance to buying Pepsi or Coke. A Pepsi or Coke may cost \$4 at the most expensive rates but

people are investing a lot of money in life insurance so perhaps another analogy would be better.

Asw. Carlton stated that in Nevada, some licensing regulations allow folks to put up some type of bond or personal responsibility waiver for timing requirements. Asw. Carlton asked if that is prevalent in other states. Mr. Nolan stated that Ethos has seen that as an option in certain states and in others states interesting carveouts have been created such as if the company creates a subsidiary entity that is brand new and has no financials of any kind, then you can license that entity and that will be given as an exception. Mr. Nolan stated that he is not really sure how that improves anything as that seems like purely substance over form but companies are often encouraged to take that route.

Asw. Carlton asked if the reasoning behind that would be that there would be someone there with the financial responsibility if things went down the slide too fast? Mr. Nolan stated that is a good question and he is not sure of the reasoning behind it and perhaps that is part of the problem. Ethos was not even required to provide a parent company guarantee to support the subsidiary entity which Mr. Nolan thought would have been the next requirement but even then if a parent company guarantee is required for the new subsidiary, why not just license the parent?

#### LIFE INSURANCE UNDERWRITING 101

Dr. Robert Gleeson, Medical Consultant for the American Council of Life Insurers (ACLI), stated that he is a physician and spent 27 years doing medical underwriting at Northwestern Mutual Life Insurance. He then spent 10 years as an associate professor at The Medical College of Wisconsin. Dr. Gleeson stated that life insurers are in the business of selling life insurance. They are often accused of looking for ways and reasons to decline life insurance or disability or long term care. Nothing could be further from the truth. Life insurers work hard to sell products and they are in competition with each other to offer a lower offer than the next company. Another key point is that with the advent and growth of medical knowledge for the last 75 years, life insurance has continually become more affordable and more widely available. Fifty years ago, people with a history of a heart attack were uninsurable. Today, most of those people get very good rates.

Dr. Gleeson stated that individual means that each person gets to decide when they want to buy and how much to buy – it is a voluntary system. That means that insurers underwrite or assess the risk only once and that is at the time of the application. Once underwritten, the price and terms cannot be changed even if the health of the applicant, or now insured, changes within two days after the insurance was issued. All companies expect to pay death claims on policies that are less than one year old because that is the nature of life – bad accidents happen and that is why you buy the product. Insurers also expect to pay claims in 60 years because that is the nature of life expectancy when you buy a policy when you are young – that policy stays in force.

It is important to remember that while there are some people who have trouble buying life insurance, there are options to individual life insurance. Almost anyone can get life and DI products through their work or union or association. The group is underwritten but the individual is not underwritten. That means that there is almost always some

coverage available everybody. The main reason that people don't have life insurance or disability or LC is that they don't buy it; they don't apply.

Dr. Gleeson stated that life insurers and health insurers are often conflated but there are important differences. For life insurance, the buyer chooses when and how much to buy. Health insurance is an annual enrollment. Underwriting of life insurance can only be done at the time of issuance. There is no underwriting for health insurance. The rates for life insurance are set at the time of purchase or issue and cannot be changed. Health insurance premiums are reset annually based on the prior years' experience. For life insurance, the full contract benefit will be paid to named beneficiaries on the death or disability. For health insurance, there is no self interest and the benefits are paid to third party providers for services provided.

Dr. Gleeson then discussed some underwriting basics. It is important to remember that life insurers are required to by law and regulation to treat individuals with similar risks similarly. The treatment has to be justified by sound actuarial principles or reasonably anticipated experience. State auditors will come in and go through books to make sure manuals and actions taken for individuals lined up. Applicants understand this and for over 100 years they have shared personal information and they trust insurers with that information as they know it is needed to make the system work well. Life insurers use personal information to assess applicant's risk but for different applicants of different ages or different dollar amounts of insurance the requirements may differ widely. If you are a 30 year old applying for \$200,000 a simple non-medical application may be sufficient. For a 65 year old applying for \$8 million, the life insurer should get more information that they because they have to do an accurate risk assessment since the risk is larger.

When an applicant is underwritten, all underwriters follow written guidelines that determines what kind of information they seek and how they assess the risk. For new medical developments or difficult or complex cases, virtually all life insurance companies have medical directors, many of them full time, who are trained in life insurance and are there to ensure that the highest standards in quality are followed. As science and knowledge advances, so does underwriting and insurers look for better and more aggressive ways to make policy offers. Fifty years ago essentially all heart attacks were uninsurable but today we know that heart attacks can be treated with stents and some of them have minimal damage to the muscle, some of them have moderate damage, some of them have rhythm damage, and some of them have other health problems. All of those things are now considered when looking at a heart attacks – the heart attack by itself is never looked at. It is always necessary to go deeper to understand the heart attack and the goal is not to find a reasons to decline coverage but rather to issue insurance at the lowest possible rate because if one company does not, another company will underwrite more aggressively and get the business.

Dr. Gleeson stated that medical tests help physicians treat diseases better and also help underwriters more accurately assess the risk. For a diabetic, an A1C can be looked at. For breast cancer, you can look at hormone markets of the tumor. For lymphoma, you can look at the genetic markers of the tumor. The genetic tests done as part of the clinical practice are increasingly becoming a part of the medical record. They are not standalone information; they help everyone understand the disease better.

Dr. Gleeson stated that he was first asked to testify about genetics in the early 1990s in Wisconsin and there was a representative there who said that you can draw a drop of blood on a child today and determine the year of their death – that genetics was that powerful. He last heard that argument last month in Florida. We are nowhere close to that. All of the scientists in the world have no interest in determining life expectancy. That is not on anyone's radar. Also, the human genome is 23 billion base pairs long. It exists in every cell of your body. Something determines why that gene makes enamel in your teeth and bile in your liver because you don't want to get it backwards, but it never happens. We have 20,000 genes but the real magic is what gene gets turned on when and what gene gets turned off when and in what series that builds. There is a phenomenal amount that we don't understand and this is anything but simple. The minority of your DNA, only 5%, are the genes. The rest of it is material that turns genes on or off so this is an incredibly complex process.

Dr. Gleeson stated that a gene mutation may be inherited and may be turned on or off by lifestyle choices. Not everyone who smokes gets cancer but some people who smoke have a mutation in a gene that grows to become a cancer. Only rarely are inherited genes determinative. Unfortunately, Huntington's disease is a tragic example. There is no single gene for getting a heart attack. There is the interplay of your lifestyle choices and then probably hundreds of genes that determine whether you get a heart attack such as lipids, inflammatory markers, good cholesterol, bad cholesterol, nitric oxide production, endothelial functions. It is much more complex than a lot of people want to make it. It is not as if we can look at a gene and make an absolute prediction. Many diseases can be diagnosed by genetic, protein, or blood tests. All three can test for the same disease but it is important to not make one of the tests more special than the other.

Dr. Gleeson stated that it is very important to remember that genetic tests can be helpful for people. If you have a gene for Familial Hypercholesterolemia, aggressive treatment with statins starting at age 20 normalizes your risk. There are colon cancer syndromes that are inherited. Increased colonoscopy starting at age 35 prevents the disease. So, when we know about the test it is to that person's benefit and the life insurance company looks at that same information favorably if the applicant is doing the correct follow up. Life insurers sell a lot of insurance to women and men with breast cancer. A BRCA test only indicates an increased risk, not a certainty, that breast cancer will develop some time before age 80. Life insurance medical directors are used to those statistics and understand how to work with them. But if you have a family history of three first degree relatives with breast cancer, that application is automatically going to be thought of as at risk. If they walk in with a genetic test that is negative for BRCA gene, that risk is going and that person did not inherit the gene and they get the insurance. So, that is an example of a genetic test helping people. Genetic tests can also subtype some forms of cancer. Today, there are some lymphomas that we now know we almost don't have to treat.

With regard to direct to consumer tests, Dr. Gleeson stated that life insurers do not want information from a direct to consumer testing company. Life insurers interest is raised when they report to the person that they got at home, you should discuss this with your personal physician. The consumer will take the test and go discuss it with their doctor and she is going to order a repeat of that test through her lab which is university based or certified and she will get the correct test. That is what life insurers want -the results that are in the medical record that correlate with their history that are performed by the

personal physician. Life insurers want to know what the applicant knows and they want all relevant information that is in the medical record as they have today. To say some of it is more special or different creates all kinds of problems including adverse selection and equity. Life insurers really want the confirmed test of any sort that is in the physician's medical record. If you go to have the neck ultrasound in the church parking lot, life insurers don't want that test – they want the test confirmed by the physician. Dr. Gleeson stated that restrictions on insurer's use of genetic testing create a special risk class that would receive more favorable treatment and rates than they would otherwise and those costs would be paid by other policyholders.

Dr. Gleeson then offered the following points in conclusion. Life insurers want to issue policies and coverage. Underwriting is one of the cornerstones of financial stability for the industry. The others are investment returns and expense control. Underwriting is strictly regulated by state law. Like risks are to be treated the same, and insurers must be able to show they treated similar risks similarly. Genetic tests are one more bit of underwriting information in the medical record where they help physicians and underwriters better understand the disease.

Rep. Oliverson stated that one of the concerns that he has had with genetic testing is that there is a small percentage of the genome that we actually know what it does and what the effect is going to be. Even if we had a panel of oncologists here, they would probably say yes, a BRCA mutation increases your risk for breast cancer but it doesn't guarantee that you will develop it. Accordingly, to what extent are they actually consistently reliable markers in terms of being able to underwrite. And to what extent are the markers and tests used exclusively, especially in an environment where we have been underwriting without this information, such that we take so much of the risk out and that benefits the policyholder. To what extent does that go to lower premiums versus making it a slam dunk for the insurer that it is a policy that will never be called into force.

Dr. Gleeson stated that life insurers use any test when it is in the literature, has been reproducibly studied, is recognized by maybe the U.S. Task Force or the American Cancer Society as reliable and useful information. It is not as if insurers are taking the first genetic test they hear of and grabbing it. Further, life insurance medical directors' coursework spends a lot of time on specific analysis, statistical positive predictive values and similar things so that insurers really understand the BRCA test or positive stress test indicates a future risk of disease and not a certainty. Insurers look at that and will come up with a price. If you have someone who has a genetic test BRCA, they already had the risk from their family history so now they are no worse off. Half of the family just got better because their test was negative. So, life insurers will look at that and say I have a woman who is 30 years old and starting to get mammograms at a good mammography center and she is compliant with all follow up – her risk is lower. Insurers think in pricing in terms of deaths per thousand people per year. If insurers say that the 30 year old is one expected death per thousand per year in that first year, with her BRCA test it might go up to 1.1 – it is a little higher but not very much higher in the same way that a bad asthmatic could double the risk. Insurers don't look at all or none.

Rep. Oliverson stated that the reason that physicians might advise someone to get tested is because there are prophylactic treatments that can be performed to lower the risk. For example, with Huntington's disease, there are genetic markers for that but a person may not want to know the answer because there is no cure for that. Rep. Oliverson stated that he wonders sometimes what insurers think about the situations

where some people do not want to know that type of information. Dr. Gleeson stated that life insurers are not asking anybody to get a genetic test. Rep. Oliverson stated that he thought Dr. Gleeson stated that if someone has a family history, and they wanted to mitigate that, it could be achievable but only if they are willing to submit to a genetic test. Dr. Gleeson stated that if someone with a disease wants to purchase \$1 million in life insurance coverage, which is pretty easy to do today, if they want the best rate and they go to a genetic counselor and their test is negative, insurers are going to look at the test but to get that test they will have gone through consultations with the genetic counselor to make sure they are ready for the test. Life insurers are not in the position to say people should go get the test. Life insurers would view that as they were a decline anyway, with respect to Huntington's, and now we are going to be able to offer insurance to half.

Dr. Gleeson stated that he understands some people might not want to know results but Huntington's disease is almost the only disease like that. Rep. Oliverson asked if they are uninsurable if they choose not to know. Dr. Gleeson replied yes. Rep. Oliverson stated that it then seems that if they want to be insured they have to submit to the test. Dr. Gleeson stated that they can go get coverage through their group insurance but any legislation would not single out Huntington's disease; it would be all inclusive for all genetic tests that Dr. Gleeson stated that he thinks it is too large a number of tests for a small segment of the population. Rep. Oliverson stated that it seems like it is a way of backing into a requirement for genetic testing in order to be insured. Dr. Gleeson stated that the only example of that is for Huntington's disease.

Asw. Carlton thanked Dr. Gleeson and stated that if she has grandchildren she will have them insured when they are baptized. Dr. Gleeson stated that he did that.

#### INTRODUCTION OF PAID FAMILY LEAVE INCOME REPLACEMENT BENEFITS MODEL ACT

Taylor Walker, Legislative Director at the ACLI, stated that ACLI is very excited about its paid family leave income replacement benefits model act proposal. ACLI and its member companies have been working diligently to address the need for paid family and medical leave benefits for working Americans. Last year, 26 states considered paid family and medical leave legislation. Unfortunately, most of those bills failed to acknowledge the strong role that private insurance already plays in insuring the medical portion of paid family medical leave and that is through private short term disability coverage. Nationwide, 47% of full time private sector workers have short term disability coverage. In fact, the highest volume of claims are pregnancy and maternity related. While disability insurance covers the medical side of paid family medical leave benefits, insurers do recognize the importance of providing the other half of the equation which is paid family leave benefits such as taking care of a loved one when sick or taking care of a new child.

In an effort to expand insured benefits for family leave, ACLI has drafted a model that would enable licensed disability carriers to file products with the state insurance departments to offer paid family leave insurance benefits. Specifically, the model would permit disability income insurers to provide wage replacement for family leave purposes either as a rider to a disability policy or on a freestanding basis as a separate policy. Ms. Walker stated that ACLI believes that disability insurers are best equipped to offer these family leave benefits because disability insurers already have the experience and

expertise and infrastructure in place to begin working towards providing these benefits either through employer sponsored group insurance policies or voluntarily purchased policies. Further, disability insurance currently provides the most extensive coverage for employees for wage replacement purposes. Insurance carriers are already providing similar family leave benefits in New York as part of its paid family medical leave program. In addition to New York, Massachusetts has also been working with the insurance industry to develop family leave products. ACLI's members have emphatically indicated that their interest in offering these types of insurance products.

Ms. Walker stated that ACLI has begun to have conversations with legislators and regulators in a number of states considering or interested in offering paid family medical leave programs. The ACLI's proposal has largely been well-received as a practical and well thought out solution. It is important that NCOIL members and fellow insurance legislators who already appreciate the role that insurers play in providing medical leave benefits are involved in this discussion surrounding family leave insurance benefits. ACLI asks that NCOIL consider model legislation that would enable insurers to offer an insurance solution for paid family leave, providing additional options and benefits for more consumers to meet their paid family leave needs.

Asw. Carlton stated that Nevada is one of several states that is working on passing paid family leave legislation. Asw. Carlton asked for clarification that the ACLI's proposal would not be competing with those statutes, but would rather be in addition to them. Ms. Walker replied yes and stated that it would be a voluntary program. Asw. Carlton asked whether the states that have considered this type of model legislation currently have paid family leave or are they looking at it as an alternative to employer-paid family leave. Ms. Walker stated that the states she has spoken to do not currently have those programs but are interested in learning about various solutions and are concerned with some of the costly state-run programs that are in place. For example, there is a bill pending in Minnesota that would create a paid family medical leave program but would also provide a private option. The sponsor is very much considering the template outlined by ACLI so there very much can be both.

Asw. Carlton asked if there would be an option for employers to purchase this for their employees as one of their benefits. Karen Melchert, Regional VP of State Relations at the ACLI, stated that is the intention of the proposal. Just like employers purchase disability insurance for their maternity leave, this would be something they could add on so if they wanted to provide family leave in addition to personal sick leave this would be a product that they would buy. Asw. Carlton stated that in Nevada you can also independently buy disability coverage so if you can independently buy that you could also independently buy this. Ms. Melchert stated yes and noted that you can already buy individual leave type of products but she is not sure of any offering family leave. This would be something you could add on as a rider to a personal policy. The ACLI is coming at this from the perspective of that it is seeing states wanting to create a state run paid family medical leave which does cut into disability and other products. The private industry already knows how to do that and it does not have to set up a whole claims function and pay for that. So, rather than have a state do that it is better to turn to the private market that already does it in a more cost-efficient way.

Sen. Jack Tate (CO) asked what the industry's observation is in terms of states measuring and managing risk properly and their estimates of the cost exposure being correct. Ms. Melchert stated that she is not sure she is qualified to answer that but can

certainly check on that and report back. Ms. Melchert stated that she is not sure how many states have had mandatory family leave in place for long enough to be able to do that. From the insurance perspective, ACLI has not seen many states dip their toe into the insurance overall other than work comp in a handful of states – most of it is taken care of by the private market. Accordingly, the private market has the expertise to do this and will take on the burden from the state.

Ms. Walker stated that, to give a comparison, some states are running state-run retirement plans and there is evidence that those are not gaining the number of employees they originally thought they would get. Accordingly, the private market knows how to do this and it has the education and knowhow.

Sen. Angela Williams (CO), stated that Colorado has introduced a paid family medical leave act and there is a public-private partnership in the bill. Sen. Williams stated that she is happy to hear a private model promoted because the social model takes so long and you have to fund it with premiums before you can get it to market. Accordingly, the bill calls for a public-private partnership with some public oversight so there is a place for complaints and compliance. Sen. Williams stated that she believes the private model is the way to go because it structures them within the insurance industry to offer that product and lets employers purchase that product. The Colorado bill also had guaranteed issue on it so that no one can be denied to be sure that marginalized communities have access. Ms. Walker stated that Colorado is one of the states ACLI has been working with and it would love to see other states follow suit.

Rep. Deborah Ferguson (AR) asked if determinations have been made with respect to how expensive the policies will be. Ms. Melchert stated that the actuaries would determine that and it is also not an open ended period of time so you have a set cost. Just like anything you are going to look at what the uptake is and how many people will use it. Parameters will have to be set around claims to make sure that it is not being triggered for a non-coverable event but it would be just like pricing any other event based on expected claims frequency. The industry knows the duration and knows salary and replacement cost. There might be a dollar limit but just like any other insurance, actuarial justified probability of claims will be looked at and the cost will be determined.

#### UPDATE ON NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (NAIC) ACCELERATED UNDERWRITING WORKING GROUP

The Honorable Glen Mulready, Oklahoma Insurance Commissioner, stated that the NAIC Accelerated Underwriting Working Group (WG) was created this past Summer and it came out of the NAIC's Big Data Working Group. In the context of life insurance, accelerated underwriting refers to the process of using available digital data sources together with algorithmic tools and modeling techniques to offer life insurance products to qualifying applicants without the collection of bodily fluids or paramedical exams. For those who qualify, this means that you are basically taking it from a 2-12 week underwriting process to 48 hours. The question is whether it requires additional regulatory controls and that is what the WG is looking into.

The WG's charge is to consider the use of external data and data analytics in accelerated life underwriting including consideration of the ongoing work of the life actuarial task force on the issue and if appropriate, draft proper guidance for the states. A work plan has been drafted that contemplates moving forward in three different

phases: the gathering of information; the identifying of issues; and drafting a work product for adoption by the A Committee. The WG is currently in the mode of information gathering which was started at the NAIC's Fall meeting. Thus far, presenters have included consultants that have developed accelerated underwriting programs, insurance companies that have developed and used accelerated underwriting, and consumer advocates raising issues. The WG has been meeting via conference almost each week since the start of 2020 with additional calls planned through mid-April. There have been presentations in both open calls and regulator-only calls.

It is important to note that there have been regulator-only calls because of concerns from consultants and insurance companies regarding the distribution of confidential information that they wanted to share in a closed setting. Dir. Rob Muriel from Illinois is Chairing the WG and he has assured everyone that all calls that can be open will be open and only confidential and proprietary issues will cause a call to be regulator-only. The WG is looking forward to completing its information gathering phase and then hopefully in the coming weeks determine what to do next such as the possible development of a white paper.

#### ADJOURNMENT

There being no further business, the Committee adjourned at 5:00 p.m.