NATIONAL COUNCIL OF INSURANCE LEGISLATORS
LIFE INSURANCE & FINANCIAL PLANNING COMMITTEE
TAMPA, FLORIDA
DECEMBER 11, 2020
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) Life Insurance & Financial Planning Committee met at the Tampa Marriott Water Street Hotel on Friday, December 11, 2020 at 3:15 P.M. (EST)

Senator Travis Holdman of Indiana, NCOIL Immediate Past President, presided.

Other members of the Committee present were (* indicates virtual attendance via Zoom):

Asm. Ken Cooley (CA)*	Sen. Shawn Vedaa (ND)
Rep. Jim Gooch (KY)*	Asw. Pam Hunter (NY)*
Rep. Michael Webber (MI)	Sen. Jim Seward (NY)*
Rep. George Keiser (ND)*	Sen. Bob Hackett (OH)*

Other legislators present were:

Sen. Mike Gaskill (IN)	Sen. Paul Utke (MN)
Sen. Andy Zay (IN)	Asm. Kevin Cahill (NY)*

Also in attendance were:

Commissioner Tom Considine, NCOIL CEO
Will Melofchik, NCOIL General Counsel
Tess Badenhausen, Assistant Director of Administration, NCOIL Support Services, LLC

QUORUM

Upon a motion made by Sen. Shawn Vedaa (ND), and seconded by Sen. Jim Seward (NY), the Committee waived the quorum requirement without objection by way of a voice vote.

MINUTES

Upon a motion made by Asm. Ken Cooley (CA), NCOIL Vice President, and seconded by Sen. Vedaa, the Committee voted without objection by way of a voice vote to approve the minutes from the Committee's September 26, 2020 meeting.

ACCELERATING LIFE INSURANCE INNOVATION TO CREATE MEANINGFUL CHANGE

Brooks Tingle, President & CEO of John Hancock Insurance (JH), stated that it occurred to John Hancock a few years ago that one's life insurance company should care an awful lot about a customer living a long and healthy life. In the range of people that care about you living a long and heathy life, besides your immediate friends and family, your life insurer probably cares more than anyone. It stuck JH as fundamentally odd that for hundreds of years we would underwrite the daylights of people and often times you would know more about one's health than that person's doctors but then upon issuing the policy just say "we sure hope they live a long and healthy life" but do absolutely nothing to help achieve that outcome. So, it occurred to JH that it should be doing more to help customers live long and heathy lives. As a historical note, it's not actually a new idea. In the 1930's, JH had such a program. At the time, most deaths were attributable to communicable diseases and things like hygiene were very important. JH had a program where they would send nurses around to customer's homes and teach them proper practices for maintaining hygiene to not spread communicable diseases. The American Medical Association (AMA) got cranky about it and said they were infringing on their territory so the program was shut down.

JH partnered with a company from South Africa called Discover Vitality to bring the program to life and JH has seen phenomenal results in the last five years in terms of offering customer's the education and incentives and rewards for taking steps to live a longer and healthier life. JH is not trying to turn everyone into a marathon runner but it has made a big impact on customer's lives and also the industry in terms of how people see life insurers – they are not just there for one's death but also to help them live a long and healthy life. It has been very apparent during COVID that this is the type of solution we need. During COVID, demand for life insurance has gone up as people are more aware of their own mortality and their own baseline health. JH built on that a year ago by building something called John Hancock Aspire – the first and only life insurance built for people living with diabetes. The population of folks living in the U.S. with diabetes is large and growing – over 30 million with 80 million pre-diabetic.

JH had surveyed those customers and over half of them think that they cannot qualify for life insurance. The reality is that the majority of those people do qualify from underwriting and they get very good rates. So, that program gives those people incentives and rewards and education and support for controlling their diabetes and they get a lower premium if they do. Accordingly, there has been a lot of innovation for JH around the ownership experience for life insurance as JH has gone from interaction with a policyholder once or twice a year with just a bill or annual statement to now 30-40 times a month through the Vitality program. Mr. Tingle stated that he believes the next big wave of innovation for the industry is around the buying process. If you think about life insurance, it is hard to find a product that is less fun to own and harder to buy. Piece of mind is nice but it does center around the thought of dying so JH has tried to make it more fun with apps and games and rewards. Now we have to make it easier to buy – it is hard to think of a product more difficult to buy in this economy as consumers are used to one click buying on Amazing. People have to go through weeks of underwriting for life insurance. Buying a home is difficult but your realtor generally doesn't ask you for blood and urine.

Sen. Holdman asked if he purchased a policy from JH what are the next steps that he should anticipate would happen with the Vitality program. Mr. Tingle stated that JH made a decision a few years ago when Vitality was first offered that it was an optional benefit. In 2018, JH said every customer that buys a policy is going to get some type of Vitality benefits. There are two types of Vitality: Vitality Plus and Vitality Go. If you select plus you receive your policy and are invited to register into the program. Assuming you register, you are then given the choice of receiving a complimentary wearable device like a Fitbit or Amazon Halo or you can participate in the Apple watch program. The key thing is that you don't have to do any of that – the program is all about carrots and not sticks. Sticks do work from a behavioral science perspective but if you buy a JH policy and chose not to use Vitality there is no harm as your underwriting doesn't change and your price doesn't change. But if you do, you get to claim a complementary device or participate in the Apple watch program and download the app and start sharing whatever information you are comfortable sharing like how many steps you take, whether you went for a preventative screening, signing up for the healthy food program that offers a 25% discount on healthy food purchases at over 17,000 grocery stores. You can go into the ecosystems and start taking advantage of all of the education and tools and support to live a longer and healthier life.

Sen. Holdman asked how JH measures success and what markers does it use. Mr. Tingle stated that long term the most pure definition of success is whether they are helping people living a longer and healthier life. The true answer for that, given the nature of the business, it wont be known for decades. In the short term, the markers looked at are the indicators of improved future mortality such as physical activity. JH Vitality customers are taking over twice as many steps a day as the average American. Also, preventive screening is a marker. We all know that when we approach different ages as a man or woman there are different screenings we need. Not surprisingly, many Americans don't adhere to those guidelines but Vitality customers do since they get points for doing so to adhere to those guidelines more often than the general public. So, JH is watching those indicators that will correlate to improved morality as that is the economic fuel that drives and supports the various rewards and incentives.

Sen. Holdman asked Mr. Tingle what challenges JH has seen during the pandemic and what responses were put together. Mr. Tingle stated that the pandemic has been a tragedy on its face but as someone who cares passionately about the life insurance industry, it is really dismaying to see how many people are dying from COVID that don't have life insurance. It may seem weird for a life insurance company CEO to say that he wishes they were paying more claims, but Mr. Tingle stated that he does indeed wish that was the case because that would mean more of the people passing away from COVID have life insurance. Mr. Tingle stated that he sits in his home office and sees the ticker of the number of deaths and thinks there should be a certain level of claims but in reality there is a fraction of that amount of claims because so many people dying from COVID simply don't have life insurance so that has created a call to action for the industry to ask itself how it can get Americans to make sure they don't die without life insurance.

As it relates to the Vitality program in particular, some features had to be changed. Vitality works such that you get points for doing things that help you lead a longer and healthier life: taking steps; seeing the doc; buying healthy foods; meditating; getting a good night sleep. It's like a frequent flyer program for doing healthy things. You get points; those point accumulate; that determines a status; that status determines how much of a premium discount you get and the value of those rewards. One way that people get to earn points is through gym visits. JH could see almost overnight in March that gym visits decreased sharply. JH knew who the people were that were going to the gym and they contacted them and offered them an alternative means of earning points such as taking a selfie of yourself working out at home. JH sent everyone a JH Vitality facemask and a number of customers said it makes sense that my life insurance company sent me a mask to promote living a longer and healthier life. JH also held a virtual 5k. So, JH has had to respond with different elements of the program and it has seen different rewards being used less than in prior years. One of the rewards is a discounted hotel stay through hotel.com but no one is using that right now. Also, the healthy food benefit has gone down a bit as people are probably not going to the grocery store as much.

But, it has been great to react and change elements of the program and be able to serve and provide customers changes of the program through its newsfeed. People are much more interested in the program now as people are getting that the more healthy they are should they get COVID the better outcome they are likely to have. A reinsurance partner of JH did a survey of U.S. consumers which asked what's one thing you will do differently as a result of COVID and 70% of people said exercise more and lose weight which at first might not make sense intuitively but makes sense when you watch COVID outcomes and see the correlation between baseline health and the success of fighting COVID.

Sen. Jim Seward (NY) asked Mr. Tingle if he had heard him correctly when he said that there has been an increase in demand of life insurance since the pandemic as people have thought more about their mortality. Regarding the innovation theme, Sen. Seward stated for years we had heard about a shortage of producers and asked if there is any thought of more innovative ways of not only marketing but reaching potentially new policyholders and getting them signed up for life insurance other than the traditional sitting across the kitchen table with an agent.

Mr. Tingle stated that JH has seen an uptick in the demand for life insurance as applications to JH are up 10% this year versus last year and there has been an uptick in interest industry wide as well. Unfortunately it takes events like a pandemic to see such an uptick as the industry saw something similar after 9/11 as people started to think about their mortality and wonder if they are prepared. There has also been an uptick in people thinking about their overall health which has caused people to be attracted to the Vitality program. Regarding distribution, there are a lot of reasons why people are dying from COVID without life insurance protection. Sadly, a third of the population just has such financial pressures that they can't think about another check for life insurance – they have to worry about putting food on the table and rent. But, for other Americans that know they need life insurance but don't have it, part of the problem is distribution and connecting with customers as the industry doesn't have enough boots on the ground traditional card carrying insurance agents to find everyone and sit across from them at the kitchen table. The industry needs new ways to find them whether it is digital or the worksite or online or associations.

The other big barrier to people not having life insurance is that Mr. Tingle stated he is convinced it is the burdensome buying process. You have to really want it to get it. Mr. Tingle told a story of how he presented at a conference consisting of younger people interested in technology and following the presentations they were all very interested in the Vitality program and asked how they could get involved with the program and get a policy and they all wanted to know how to get it via their phones. Mr. Tingle tried to dress it up the best he could but the reality is that he could only tell them the real process which is very time consuming and burdensome.

Unfortunately, none of the young people followed up with him about the program after hearing about the process. Since life insurance is very difficult to get, Mr. Tingle stated he thinks you will see going forward a whole wave of innovation coming relating to the buying process such as the use of electronic health records. So many of us as patients have on our phones an app with our health records. This whole crazy process we go through today regarding requesting a copy of someone's health records and then waiting and reviewing it is burdensome. JH conducted a survey of U.S. consumers asking if they would be willing to provide a one-time limited use to electronic health records – would you be willing to share health records through an app if it meant getting life insurance in days instead of weeks. Over 60% of people responded yes so you will see a wave of innovation around the buying process.

Some things you will have to be careful about as legislators and regulators because there is a lot of data out there and you will hear a lot of talk about the use of big data to predict mortality outcomes and you can do it pretty accurately but for fairness reasons there are concerns. Mr. Tingle stated that he has a team of data scientists that if you give them someone's name and birthdate they can give you with 94% accuracy how a traditional underwriter will underwrite a case with all the traditional inputs. But we are not going to underwrite that way because what do you say to a client? The client will say why didn't you give me your best rate and under the traditional method you can say its because of your blood pressure or something else but under the data method you don't want to say its because our predictive algorithm underwriting model scored you to a 68 – what does that mean? It will be an interesting issue for legislators and regulators when thinking about making sure the industry uses data responsibly because we do have to think about improving the buying process as it should take weeks and months – it should take moments or a day or two with the right information but it has to be done responsibly.

You are going to see actors out there doing things differently because the data can be quite predictive. As an example, years ago there was a company saying that they could predict mortality and morbidity based on your cable tv bill as percentage of your income. It didn't work at all when you got to over $150,000 of income but if you made $35,000 a year and have a $250 per month cable bill the logic was that says a lot about your lifestyle. The model wasn't only the cable tv bill and included other inputs but that stuff actually kind of works but its not stuff we should be using for underwriting in Mr. Tingle's view. In his view, the best path to a more timely experience with a customer is some of the traditional and legitimate medical information as inputs but obtaining it much more efficiently and electronically and acted upon more quickly. The industry does have to innovate as the growth rate has been extremely small considering inflation and we know the products and solutions are valuable so we have to make it easier to buy and more fun to own but we have to do it the right way.

Rep. George Keiser (ND) stated that regarding quick access via the phone it reminded him of what happened when agents came to him very upset about the time it was taking to get medical records from hospitals and providers. Rep. Keiser stated that he was amazed that the providers arbitrarily expanded the timeframe to almost 4 weeks and that resulted in really significant problems for selling of life insurance. Rep. Keiser asked how big of a problem that was.

Mr. Tingle stated that it has been a particular problem during COVID as the industry's reliance on traditional practices of a paramedical exam or an insurance exam or tracking down files at a doctor's office have persisted and there has been a strain on the healthcare system. Frankly, doctor's offices probably have better things to do right now than ferret out copies of people's records for insurance exams. Anything that slows down the process is bad for the customer, bad for the carrier and bad for the agent as they don't get paid until the sale is complete. That is why JH thinks utilization of electronic versions of those records can be so powerful. Its not like the carrier is getting different information tan what it is entitled to – it is just getting that information much more quickly without the agent having to chase it down or the docs office having to copy it or whatever they do. Its always been an issue and its been a bigger issue with COVID and JH is trying to move toward utilization of electronic health records much more.

Sen. Holdman asked what the level of insurance face value is that someone purchases where they aren't required to do the paramedical screening. Mr. Tingle stated it varies by company. It can get up to about $2 million below 65 years of age. He thinks you are going to see an arms race among carriers as to who can underwrite the highest amount for the oldest person with the least information. That has to be done responsibly but it will be good for consumers if life insurance is easier to get and easier to get the protection they need.

REGULATORY CHALLENGES AND TEMP-TO-PERM EFFORTS IN A TOUCHLESS SOCIETY

Jordan Martell, Vice President, Innovation Counsel at Pacific Life, began with some background information. Homo erectus is a species of human that existed for about 2 million years and we have homo sapiens which is all of us. The reason he is starting here is because there is an interesting parallel. By many estimates, homo erectus was the most successful human being to ever walk the earth. That species lasted for over 2 million years and we have lasted for only 300,000 years and given the way 2020 has gone sometimes its doubtful whether we will make it to 2 million years. There was a time on this planet that some people don't know about where many species of humans walked the earth at the same time and they connected with each other. That was true of homo erectus and homo sapiens as these two species competed and it is fairly obvious who won that competition.

Regarding competition, that is relevant to this discussion regarding innovation. Mr. Martell showed a slide of the first tools used by both homo erectus and homo sapiens which were fairly similar. There was no innovation at all with the tools used by homo erectus but with homo sapiens our current tools are smartphones and are very sophisticated. Accordingly, it is not that surprising why homo erectus is gone and homo sapiens are still here. Mr. Martell put forth to the Committee that innovation is the central thesis of the human homo sapiens survival and of the way our minds work – it is in our genes. Survival requires innovation. This is true not only on the species level but at the corporate level as well. More than half of fortune 500 companies have disappeared since 2000. In 1960, the average lifespan of a company listed on the S&P Index was 60 years. Today, the S&P index is made up of newcomers as the average age companies on that index is 15 years. These newcomers are supplanting the traditional powerhouses in the industries very quickly. McKinsey & Co. estimates that by 2027, 75% of today's S&P 500 will disappear. This speaks to the need of legacy companies that want to continue to serve consumers to do so and embrace innovation to meet their consumes where they are.

Mr. Martell then discussed innovation in artificial intelligence. Mr. Martell sated that he often gets the question of why am I hearing so much about artificial intelligence right now. There are three reasons. First is the formula for AI. Formula doesn't mean a math formula; there is actually nothing very new about the math that underlies AI as that has been around since the 1950s and 1960s. What is new is the formula of data. The estimate is that over 90% of all human data has been created in the past 2 years. So, if you think back to the Bible and Iliad and Odyssey and Shakespeare and Milton and the burning of the library of Alexandria, all of that amounted to less than 10% of human data created. So, part of the formula for AI is data and a corollary necessary component in the formula is computing power. Moore's Law states that the computing power of a microchip will double every 2 years and so far going back to the 1970s when computer chips were new that has happened. So together, data and computing power are here and fueling the drive in AI.

An important aspect of this other than the formula for AI is funding. We hear a lot more about AI because frankly there is a lot of money there now. In 2019, there was $26 billion invested in startup AI companies. However, if AI was so wonderful and simple as this, we wouldn't be talking about it. We are also talking about AI because it has problems. One of the problems is data breaches. AI needs big data in order to be powerful but with big data comes big responsibility and unfortunately we are seeing a growth in the number of consumers impacted by breaches and the number of actual breaches happening. That is something that we as a society, as an industry, and as legislators and regulators, need to consider seriously. Another problem related to AI is the acknowledgement of the discussion happening today around the way AI can sometimes perpetuate inequalities. If you are relying on big data and that data has bias in it and you put that into a computer it shouldn't surprise anyone that the result of that equation will be a biased equation. Proxy discrimination has been a hot topic and there has been a lot of discussion and that discussion is being teed up again because we have the data and the computer power and the funding and the ability to run AI and now we need to grapple with the way to do it responsibly and to determine what data is acceptable to put unto AI and what data is out of bounds.

Mr. Martell then discussed modernization efforts in regulations. In 1903, about 10% of people had a landline telephone and that got up to 40% at about 1930. It peaked at around 1970. So, it took about 70 years for the landline to peak and it never got to 100%. Regarding the use of electrical power in homes, it took about 60 years to where it peaked and that never reached 100%. We still have homes that don't have electric power. You can contrast this info with consumer adoption of more recent tech such as internet, smartphones and tablets. Tablets started around 2008 and in 2019 there is still a vertical rise. The point is that there is a large trend of consumers that are hastening the adoption of technology in particular communications technology such as the internet, smartphones and tablets. People love these because they want to communicate and they are the technologies they embrace in their everyday life. They take them with them wherever they go. By contrast, if you go back to 2000 the internet is just barely taking off at about 20% of market penetration. In 2000, when e-signature law was enacted the fax machine was still the predominant way of communicating other than US Postal. E-mail was not really widespread, text messaging was not heard of and smartphones did not really exist. Shortly after 2000 when e-sign came into effect the SEC issued guidance on record retention and that guidance to this date still refers to the use of microfiche. A lot has changed in the world of technology since 2000 and 2004 when the microfiche guidance came out. Very few companies still use microfiche but all of them are using internet and related technologies.

So, there is a consumer adoption of technology advancing and that was only hastened acutely in March of this year with COVID. The phrase "times like these" in quarterly earnings calls has increased a lot since March. Since March, we have moved towards a touchless society. The point of this is that in addition to the larger trend of consumers moving into the digital space with great haste, we as a country have almost overnight moved to a work from home touchless society. This transition has provided us with a proving ground to demonstrate that many of the technologies that we have seen consumers adopting are good for business and good for consumers because they meet consumers where they want to be which is in an online digital world. Related to the touchless society and COVID, there are a number of temporary accommodations that have been issued to the insurance industry that has enabled the industry to continue to serve our customers and to serve the communities where they operate. There is an effort underway to look at some of those temporary accommodations that have proven successful under the test of COVID and use this opportunity to make those permanent.

One of those accommodations has been the electronic delivery of documents. The e-sign act for insurance came into place in 2000 and many of the seminal technologies that transformed the country for the first time and enabled a new wave of growth and industry and connected people across the entire continent – all of the technologies are encapsulated on someone's smartphone. Mr. Martell stated that in south California where he lives, there are sometimes wildfires and it can be almost virtually guaranteed that if he has to leave his house during a wildfire the entire family will grab their smartphones. Not everyone will have the time to grab important papers and documents. That is an important thing to consider because very early legislation like the e-sign act and some of those that came around 20 years ago before the smartphone was even a twinkle in Steve Jobs eye – they presume that paper has some inherent superiority over digital. There are some advantages to paper but there are also advantages to digital and it is important that consumers have a choice of where they get their documents. If they want them on their smartphone where they can take them everywhere they want to go and interact with people such as the JH Vitality product, we need digital capabilities and we need to enable that.

There are a number of trends looking at e-delivery. At the federal level, the DOL and SEC are both maintaining efforts to begin a dialogue around advancing e-delivery of documents. In the U.S. Senate today, there is an e-sign modernization act put forth by Sen. John Thune. It is not very clear what will happen with that as with many things in Congress things are moving slowly but there are models out there to demonstrate what an e-sign modernization act could look like. The Federal Advisory Committee on Insurance (FACI) also recently provided feedback to FIO asking them to explore barriers to e-delivery and issues of access to e-delivery tools. E-delivery is one space where there is a lot of room for improvement to try and meet consumers where they are.

Related to that is the use of electronic signatures and notarizations. Notarization has been around a long time for hundreds of years. Notaries are meant to ease people's concerns about the security and authentication of wet signatures. Today, to the extent that we have achieved some level in wet signatures, we have technology like an iPad where a person can have an authorization software that uses their IP address, thumbprint and personal pin code to serve as a fairly strong authentication that their signature is in fact there's. So, there is a lot of room for growth between the antiquated in person notary process and what new technology has enabled us to do. A number of states have tackled this issue through executive order and regulatory initiatives as well. Some of the temporary accommodations regarding remote notarization are important things for us to consider as an industry because life insurance is a hard product to buy and if we can make it easier and more digital where consumers are that is a way to expand access. There is a bipartisan bill in the U.S. House called the Secure Notarization Act of 2020. The path is uncertain but it provides a model of what it could look like to modernize this structure. Also, FACI provided comments to FIO asking them to look at the issue of e-signature and enhance the ability of industry to leverage these new technologies.

Mr. Martell then discussed in-person requirements. Not that long ago, we were still doing many forms of examinations in-person. Some genius said lets move from in-person exams to computer exams but that still involves people in a room taking exams on computers together so that didn't solve the social distancing issue. Today, however, there is a great number of technologies that enable us to program things in person as well we would on a computer. Zoom is an example. There are a number of examination technologies that allow the CA Bar for example to shift to online computer exams for would be lawyers. The shift to technology and meeting people where they are has allowed the industry to revisit as an industry in person requirements. There has been as successful trial in 2020 as a number of states have allowed relief from in person market conduct exams and financial exams of regulated industries. We have had a chance to try them in a way never before and as a society and hopefully legislators are getting more comfortable because we now have proven technology that can protect the process of examination and protect the branch exams and licensing exams and do just as well as if it was in person and it could be argued that an online or branch exam has an advantage over in person exams because inherently all of the data has to be digital and if you have digital data there are ways it can be fed into computers to streamline review processes that make exams more dynamic based on the ability of AI.

Asm. Ken Cooley (CA), NCOIL Vice President, asked as you look at this imperative change and evolution of things like e-sign law, are there other places where trends are popping up against legal frameworks that present problems that restrict change. One can go back to the history of change in the 1960s as everyone put their money into banks and banks would pay little interest and then there was high inflation in the 1970s and money market mutual funds appeared and people started moving their money out of the banks to where they could get a little more interest which led to the term disintermediation as the bank as the industry saw all their money get sucked out and eventually that led to all kinds of consequences. But change was afoot and it bumped up against existing structures and it upended and changed whole industries. Are there other areas besides e-sign where we could be bumping into change issues?

Mr. Martell stated yes and disintermediation is still a very real issue and you can ask any taxi cab driver in NY and CA about that although there was CA legislation around that recently. Disintermediation is still very real and the need to continue to innovate for legacy companies that want to continue to serve consumers is more important now than ever because technology is changing but regulations are not changing as quickly. Besides e-sign, remote notarization and e-delivery you can also look at things like Telephone Consumer Protection Act (TCPA) which is federal legislation on texting. That was designed when it used to cost you 15 cents every time you got a text message but that is not true today and it also doesn't contemplate technologies like snapchat and other messaging technologies. Although those technologies present regulatory challenges there are a number of areas with respect to regulatory burdens that impair the ability of legacy corporations like Pacific Life to compete with some startup companies. If you look at app based driving that was illegal in many states and they launched those technologies notwithstanding the laws in place and because consumers wanted that and those companies have been successful and the laws have been forced to shift or in some instance states have had to push back against those corporations.

Sen. Holdman stated that he authorized the no-texting while driving legislation back in 2009 and at the time they were brining that there was maybe less than 20 apps that you could load onto your phone. Indiana just passed hands free legislation this past year because we don't even know what the number is as apps are being developed every day and there are tens of thousands of apps you can download on your phone very day so it is a changing society in everything that we do electronically.

ADJOURNMENT

Upon a Motion made by Sen. Vedaa and seconded by Rep. Michael Webber (MI), the Committee adjourned at 4:30 p.m.