NATIONAL COUNCIL OF INSURANCE LEGISLATORS
NCOIL – NAIC DIALOGUE COMMITTEE
2025 NCOIL SPRING MEETING – CHARLESTON, SOUTH CAROLINA
APRIL 25, 2025
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) NCOIL – NAIC Dialogue Committee met at The Francis Marion Hotel in Charleston, South Carolina on Friday, April 25, 2025 at 2:00 p.m.

New York Assemblywoman Pam Hunter, NCOIL President and Co-Chair of the Committee, presided.

Other members of the Committee present were:

Rep. Brenda Carter (MI)
Sen. Paul Utke (MN)
Rep. Brian Lampton (OH)
Rep. Tom Oliverson, M.D. (TX)
Rep. Jim Dunnigan (UT)
Del. Walter Hall (WV)

Other legislators present were:

Sen. Jesse Bjorkman (AK)
Rep. Justin Wilmeth (AZ)
Rep. Eddie Lumsden (GA)
Rep. Brett Barker (IA)
Rep. Elizabeth Wilson (IA)
Rep. Peggy Mayfield (IN)
Rep. Vanessa Grossl (KY)
Sen. Donald Douglas (KY)
Sen. Franklin Foil (LA)
Rep. Robert Foley (ME)
Del. Mike Rogers (MD)
Rep. Jennifer Balkcom (NC)
Sen. Bill Gannon (NH)
Rep. Kristian Grant (MI)
Rep. Meredith Craig (OH)
Rep. Perry Warren (PA)
Rep. Sean Bennett (SC)
Rep. Barbara Dittrich (WI)
Sen. Mike Azinger (WV)
Sen. Cale Case (WY)

Also in attendance were:

Will Melofchik, NCOIL CEO
Anne Kennedy, NCOIL General Counsel
Pat Gilbert, Director of Policy, Administration & Member Services, NCOIL Support Services, LLC

QUORUM

Upon a Motion made by Rep. Brenda Carter (MI) and seconded by Rep. Tom Oliverson, M.D. (TX), NCOIL Immediate Past President, the Committee voted without objection by way of a voice vote to waive the quorum requirement.

MINUTES

Upon a Motion made by Rep. Oliverson and seconded by Del. Walter Hall (WV), the Committee voted without objection by way of a voice vote to adopt the minutes of the Committee's November 23, 2024 meeting.

INTRODUCTORY REMARKS

Asw. Hunter stated before we get started I'd just like to say I really appreciate you all being here today on behalf of the National Association of Insurance Commissioners (NAIC) and I look forward to our organizations continuing to strengthen our relationship. When our organizations are in positions of strength and are able to cooperate with each other that ultimately benefits consumers in our state-based system of insurance regulation. So thank you and I appreciate your large group of commissioners being here today. And fitting with that theme, I'd like to mention that printed out before you is an op-ed that was authored by myself and NAIC President and North Dakota Insurance Cmsr. Jon Godfread celebrating the state-based system of insurance in light of this year being the 80th anniversary of the McCarran-Ferguson Act. You can also view it on the app and the website. And I do think that this op-ed is a great example of how the relationship between our organizations has improved over the years and it's a strong foundation for us to keep moving forward. Before we get started, can you all please introduce yourselves: Cmsr. Godfread; Utah Commissioner and NAIC Secretary-Treasurer Jon Pike; Florida Commissioner Mike Yaworsky; Georgia Commissioner John King; Oklahoma Commissioner Glen Mulready; South Carolina Director Michael Wise; Washington Commissioner Patty Kuderer; and Wisconsin Commissioner Nathan Houdek.

RECAP OF NAIC SPRING MEETING AND DISCUSSION ON NAIC 2025 PRIORITIES

Asw. Hunter stated that last month, the NAIC concluded its spring meeting in Indianapolis and as usual, there were many items discussed and actions taken that have a major impact on the insurance marketplace. And also, earlier this year, the NAIC set forth its priorities at both the state and federal level. So, can you touch on some of the highlights from your spring meeting and also discuss the NAIC priorities for this year?

Cmsr. Godfread stated that before I get started, I just want to say thank you for hosting us and having us here. I agree with your comments about when we work together, everything's a lot better. This is my first NCOIL meeting, and I'm going to give a little bit of a background on why that is. Prior to my being elected North Dakota Insurance Commissioner, the late George Keiser, who was a strong force in this organization for a number of years, met with me, and he said we're not joining The Compact and you don't need to worry about going to NCOIL because I've got that covered. And at that point I wasn't sure what those two things were but I said I'll respect your wishes. Now I think he was keeping a secret from me and I'm happy to be here and happy to be a part of the Compact. And an opportunity for us to meet with policymakers and talk to these issues is so critically important, and the closer our organizations can be, the better that is for the states, and the better it is for state-based regulation. And I think that the op-ed that we were able to author together really outlines that.

But jumping into the Indianapolis Spring National Meeting we had back in March, we had a very good turnout. I know it wasn't quite a record-setting turnout like your meeting here, but we had good participation from across the industry as well as from regulators and we've really hit the ground running this year. We've reorganized how we're doing some of our priorities and how we're kind of outlining some of our governance within the NAIC. We are really taking a hard look at governance and really taking a look at the hard work of the different parent committees that we have across the association, and trying to give them some more directives and some more key working opportunities. Again, getting back into what is the value of bringing stakeholders together is doing the work in front of them and having that robust discussion as much as we possibly can. And so, continue down that road, some of the highlights from the meeting were the kicking off and deployment of our Risk Based Capital (RBC) Model Governance Task Force.

That's being led by Cmsr. Houdek who's also here at the table as well as Ohio Director Judi French. They've been tasked with doing a pretty comprehensive analysis of our RBC framework and looking at some principles behind the RBC framework. This is one of the key tools we use for financial regulation. I would stand it up against any financial regulatory tool across the world. And a part of this process is to conduct a gap analysis to make sure when we want to make changes to the RBC or changes to our analysis that we've got some principles behind it. I think it's important as the investment landscape evolves and changes that the insurance industry needs to be responsive to that. The regulators also need to be responsive to that to make sure that we're allowing reasonable and responsible capital into the market.

I think there's a great opportunity here when we talk about closing coverage gaps or serving underserved communities. It's really hard to, if not impossible, do that without additional capital. And that's on all lines of insurance. And so, our capital regulation must be flexible. It must be certainly responsible. But as our markets change, we've got to be able to take a look at how we evolve as an industry in allowing those capital formations into our industry where they fit and where they are appropriate. So, Cmsr. Houdek and Dir. French are certainly leading that effort. Dir. Wise is also a co-vice chair. I like to say we've got the "who's who" of financial regulation leading that work and I'm really excited about the work they're doing. Another key point is through our C-Committee, our Property and Casualty Committee, and there's been a lot of work done by Cmsr. Yaworsky on data collection. You may remember there was a lot of talk last year about the property & casualty insurance data call and some of the interactions with the Federal Insurance Office (FIO) and what that means for our market. I think we can all agree, there's probably a lessening of some pressure coming from FIO on that piece. It gives us an opportunity to collectively come together as regulators and figure out how we want to do this going forward. The data is necessary. We need to have the data on our markets. We need to have an understanding of what's going on in our marketplaces so we can provide that to you all as policymakers when you have questions. I often get questions from my legislators on how many homeowners have insurance. And for a state like North Dakota, where we're really rural, that would mean doing a data call to get that information. I don't have access to that information or if I do, it's likely two years old. As we all look at making policy decisions, they're driven by data, and we've got to have that fundamental underlying data to make those policy decisions. Colorado Commissioner Mike Conway is the chair of the C-Committee. Cmsr. Yaworsky is one of the co-vice chairs, and he and Cmsr. King have been also tasked with trying to come up with what a data call model looks like going forward so we can be a little bit more uniform and standardized so that when we do a data call as an industry, we're not trying to reinvent the wheel in every state. That becomes a costly process. One of the other pieces on the agenda was looking at the affordability and availability of insurance. We may touch on that a little later, but that's another priority of the C-Committee. Touching on big data and artificial intelligence briefly, we presented a roadmap to responsible AI use. We're also looking at in the G-Committee, which is our international insurance committee, the implementation of the insurance capital standard and the AI creation method and how that's going to work internationally. That will be led by Nebraska Director Eric Dunning, who is our G-Committee chair.

I do want to jump into our federal priorities. Touching on the federal claims filing deadline extending a two-year deadline for the federal government to file claims against insurance receiverships, and really looking at supporting natural catastrophe mitigation. There's been a lot of discussion around The Federal Emergency Management Agency (FEMA) and around the National Flood Insurance Program (NFIP), around what dollars are going into disaster recovery, and I was fortunate enough to sit on a wildfire roundtable back in January with the U.S. House Financial Services Committee and I was a little surprised at how the discussion went. It really shifted to mitigation and how we use federal dollars to enhance community mitigation, and where can that go. There's a lot of federal bills out there right now dealing with that issue. I don't think we have a list of favorites yet, but the mentality of driving mitigation down into the communities through the states is a really good first step into preventing loss in the long term. This isn't something you do overnight. We're not going to be able to change building codes or implement significant mitigation across our communities overnight. It's a step that we've got to continue to take so we can make our communities resilient for the long term. We also continue to oppose any federal preemption on privacy, cybersecurity and AI. If there's one area I think that Congress will eventually come to some agreement on it is on privacy. The threat of Congress coming together and coalescing around some privacy model is very real and it's why we continue to work on our privacy model law at the NAIC. Also on the federal side, the extension of the premium tax credits is another key issue. I don't think I know a commissioner who is opposed to extending those tax credits and giving the access that they provide to our consumers in our states to receive healthcare and have access to health insurance. We are always looking for more market flexibility on the health side anywhere we can get it. And then also working with the Centers for Medicare & Medicaid Services (CMS), The Center for Consumer Information and Insurance Oversight (CCIIO), and the U.S. Department of Health and Human Services (HHS) to really look at Medicare Advantage oversight. We've been asking to pull that back into the states to allow us to enforce regulations on some of the bad actors that are operating in that space. I think there's some understanding around that and some agreement to that. It's just a matter of getting over that hurdle.

The last federal priority we came to consensus around is calling for the elimination of FIO. That is a new step for us. We've often talked about FIO and what role it plays in the industry, but we were able to get to a point where there was bipartisan agreement on calling for its elimination. In my opinion, it hasn't been a very successful partnership. I think the data call that I mentioned is a prime example of that, and I don't need to get into rehashing of all that but there wasn't a feeling of true partnership around how we're sharing information, how we're sharing data, and how we're analyzing it. And so given the direction of where we are going, there could be an opportunity for us to support Montana Congressman Troy Downing's new bill to call for the elimination of FIO. That's a real quick overview. There's one other issue I'd like to bring up, and it’s one of the model laws that you all have before you at this meeting. I think as state insurance regulators one of our core responsibilities is to continue to ensure that our consumers are protected and we all share in that goal of ensuring that markets remain stable and our companies operate within a fair and transparent regulatory framework. With regard to the revised Rental Home Marketplace Guarantees Act, I think we can understand the intent behind it. We can understand the desire behind trying to address some of the innovation in the sharing economy, but it does continue to raise some fundamental concerns for us. I’d like to turn over to Cmsr. Kuderer to walk us through some of those concerns.

Cmsr. Kuderer stated I just want to start by saying it's an honor to be here. I've been here before as a legislator and I'm here now as a commissioner of insurance, and I also want to say that South Carolina's slogan is, “Made for Vacation,” but its motto is, “Be prepared in mind and resources.” And that all feels very appropriate for this discussion because both are foundational to my remarks today. We can all enjoy a vacation rental but we can also be prudent in how to legislate it. And that's how my office regulated Airbnb when we took legal action against it a few years ago. I'm still a little new to my role as a regulator but I'm consistently impressed by the work of our legal affairs team and the standard that they've set for proactively regulating corporations that engage in the insurance business but don't consider themselves within our authority. We started looking into Airbnb's host damage protection program in 2022, as a result of a consumer complaint alleging that the $1 million in coverage for host property damage was merely a marketing scheme. Airbnb had been offering this coverage since 2012. That coverage was meant to cover up to $1 million in guest damages to the host property. The same bucket of coverage offered host and experience liability coverages all under a general commercial liability policy issued to Airbnb and then extended to the host.

In addition to misrepresenting the coverage offered to consumers, Airbnb wasn't licensed in Washington, so this was an issue with us as a regulator. In the end, Airbnb admitted it violated our insurance code and agreed to a $20,000 fine and to secure a surplus lines policy through a broker licensed in Washington. And we also made the company review 1,168 denied claims from January of 2021 to August of 2023 and pay out all improperly denied claims to date. Moving forward, the company agreed that all future claims paid out would be determined by an insurance adjuster licensed in Washington. The proposed model law before you now, as written, takes a large step backwards from the work we did in Washington and will codify into law the idea that rental home marketplace entities can operate outside the insurance code without regard to the negative impact on consumers. From my perspective, the revised model law is a direct response to Washington holding them accountable for violating our insurance laws. It is too broad, it cuts important consumer protection language, and it restricts our ability to create rules that govern these entities despite them operating in our field of regulation. Section 4 alone establishes that these businesses would be outside the insurance code in Washington, and the revisions in Section 6 gut what little consumer protection language this bill had, including disclosures on whether the guarantee is covered under a reimbursement insurance policy, disclosures identifying who provides payment under the contract, disclosures on the purchase price in terms of policies sold separately, disclosures on any damage recovery minimums, disclosures on cancellation and refund policies, and notification requirements prior to contract terminations. The proposed legislation establishes something resembling travel insurance, a product that already exists and that we already regulate, and rebrands it as a rental home marketplace guarantee. And it's labeled a guarantee despite repeatedly using the term insurance to describe the product that would pay the damages covered by the guarantee. This proposed model legislation eliminates accountability by taking their insurance product out of our scope of authority. It's not in our consumer's best interest to accept this, and as a state insurance regulator, I will do everything in my power to ensure that, as currently written, it is not enacted into law into Washington.

Asw. Hunter stated that your comments are timely as we do have this as an agenda item for our Property & Casualty Insurance committee meeting tomorrow, so thank you for bringing that forward. Asw. Hunter then stated to Cmsr. Godfread you mentioned FIO and your conversations about the potential elimination of it - would the elimination of FIO cement McCarran-Ferguson as the basis for state-based insurance regulation? Cmsr. Godfread stated I think it certainly helps with that, or I think it removes some of the duplicative touch points on what happens, especially internationally. When we go out and deal internationally with the International Association of Insurance Supervisors (IAIS) or with the other international forums, as it stands right now, a lot of our international colleagues defer to FIO because they're the federal regulator, not understanding that under our state-based system, they don't really regulate much of anything. And so, I think removing that distinction and removing that potential confusion really goes a long way not only domestically, but also certainly on the international stage. So, I think it's a good step. And the U.S. Treasury Department will always have the authority to look at the insurance marketplace. They're always going to have an angle or an ability to understand and look at the insurance marketplace. But when you get into the discussions around what FIO has been utilizing their power or authority for, I think I've been left a little less than impressed by how that partnership has evolved. And so, political realities being what they are, I'm not sure if FIO will be eliminated. But I think it's also an important signal to send to the new administration that this is kind of where we're at if you want to have a conversation about what the appropriateness of FIO looks like.

Asw. Hunter stated you mentioned mitigation issues - we've had wildfires in New York. You wouldn't think that would be something happening, but it absolutely has. Relative to mitigation, who's responsible ultimately for mitigation? I know some of the conversation was about some of the carriers that were coming out of California who were turned off by the fact that California wasn't doing what they needed to do to mitigate some of the wildfire risks. Cmsr. Godfread stated I think ultimately who's responsible is the communities. I'll happily defer to my other colleagues. We've had wildfires in North Dakota. Thankfully we've got a lot of wide open spaces, so it doesn't necessarily impact buildings or structures but when you look at wildfire mitigation, I can mitigate my home with regard to wildfires, but if my neighbor doesn't, it doesn't really matter. It's got to be a community-wide effort and I think where some states are running into those issues is in the building code or land use regulations. Those type of discussions are a political third rail. It's a bipartisan issue. I think everybody gets mad at everybody if you start talking about land use and you start talking about local regulations. I think what the U.S. House Financial Services Committee has signaled is that this is more than the insurance industry's discussion. This is the builders, this is the communities, this is local government. It's really going to take all of us to become a resilient country and address the risk. I think of North Dakota as a prime example of how to build against wind and hail, but we don't do it because of the building code. There isn't an incentive there for our builders to build to that level of protection. We're often very focused on that first dollar cost of the home versus the lifetime cost of the home. I think you're seeing that conversation evolve and shift. It's not going to happen overnight, but I'm encouraged by that roundtable discussion. It was not about how terrible the insurance industry is. It was more about, “Okay, the federal government's going to pay for the post-disaster or pre-disaster. What do we want to look at investing into?” And that is actually a helpful conversation.

Cmsr. Mulready stated with regard to the mitigation question, we've got a number of states with legislation, certainly led by Alabama with their Strength Alabama Homes Act that the state of Oklahoma 100% copied. We have just recently launched that but we've got Louisiana, we've got Florida, we've got South Carolina that have similar programs. And tthere are almost 40 states engaged in conversations about moving forward with a similar mitigation program so a lot's happening there.

UPDATE ON NAIC'S “FRAMEWORK FOR REGULATION OF INSURER INVESTMENTS” INCLUDING REQUEST FOR PROPOSAL FOR CREDIT RATING PROVIDER DUE DILIGENCE

Asw. Hunter stated next up is an update on the NAIC's Framework for Regulation of Insurer Investments, including its request for proposal for credit rating provider due diligence. We've had very productive discussions with the NAIC regarding its framework, specifically the part of the framework that dealt with the Securities Valuation Office (SVO) ratings discretion process. Ultimately, we feel the ratings discretion proposal ended up in a good place, and we appreciate you working with us on that. Now we're interested in this request for proposal for credit rating provider due diligence. The NAIC's stated goal here is the establishment of a robust and effective government structure for the due diligence of credit rating providers (CRP). Can you provide us with an update on your work on this and also give some background as to why the NAIC believes this due diligence is necessary and also how does the proposal interact with the Federal Credit Rating Agency Reform Act?

Cmsr. Houdek stated back in 2023, we released the Framework for Insurer Investments, or what we call the Investment Framework, and a key part of that was enacting more oversight over ratings provided by CRPs. The last couple of years, we've been moving forward on two separate initiatives relating to that oversight. The first one we adopted last year, which you mentioned, was the discretion over the ratings from the SVO. Under certain circumstances and following the parameters that have been established that will go into effect probably January of next year as it takes a little bit of time to update the computer systems and other things that need to happen. That process played out for about over a year. There were three different exposure periods where we received a lot of stakeholder interested party feedback and input. Ultimately, we ended up making a number of changes to address the feedback that we have received including, as you mentioned, comments from NCOIL, where we made sure that there were regulators who had the ultimate decision-making authority at the end of that process. So now we are moving on to kind of the next phase of that CRP oversight, which is to develop a due diligence framework basically establishing qualitative and quantitative factors that the CRPs would have to meet in order to be able to participate as CRPs that can provide ratings which then track to NAIC designations. We are in the process of hiring a consultant. We had issued a request for proposal last year and then revised it based on comments, and we've now gotten to the point of finalizing an agreement with the consultant who will then work with us to develop that due diligence framework.

And the goal is moving from blind reliance to informed reliance on the ratings that are provided by the CRPs. It's just been a recognition among regulators that because of the complexity of investments, and the shift in terms of the types of investments that we've been seeing, and also a shift in more private ratings that are being provided, there was a feeling that we needed to have more oversight in terms of those ratings and have informed reliance in terms of how those ratings tracked with NAIC designations and our accounting standards. And so that's really the motivation and driving force behind this work and as we move forward on engaging with this consultant and developing the due diligence framework, the same as we did with the discretion proposal last year, there will be multiple opportunities for comment. We will expose our work along the way and really encourage NCOIL and all other interested parties to stay involved in the process and provide any feedback and ask questions throughout the process.

Asw. Hunter asked if there is an example that you could give that relates to a smaller agency rating that had some sort of shift, maybe monetarily, that had you had these parameters in place, it would have made something different? Cmsr. Houdek stated it's hard to call out specific examples. I think part of the motivation and why this is being done is the shift that we're kind of seeing in the market. It's the shift in the types of investments where we're seeing more private investments, more private credit and just private capital in general. And related to that, the ratings are more private. So typically, when we had treasuries or other securities that were public and then the ratings were public, you had kind of a market validation process. You had multiple ratings that were seen by everyone in a public forum and as the assets have moved into more of the private side and then the ratings have become more private, you don't have that same type of market transparency and validation. So, developing this type of framework and putting in place these qualitative and quantitative factors is really critical for ensuring the quality and validating the quality of the ratings. So, I can't really speak to a specific example, partly because that's often confidential and proprietary information, but it’s really a lot of it is driven by the shift that we're seeing in terms of more private investments and more private ratings. Asw. Hunter asked how long do you think this is going to take? Cmsr. Houdek stated hopefully as quickly as possible but with enough time to make sure everyone has the opportunity for input and we're just getting the consultant on board in the next month or two and then it'll take some time to engage with stakeholders. It won't be finalized by the end of this year, but we're hoping by the end of the year to be making good progress going into next year.

Rep. Oliverson stated I just wanted to thank you all, particularly Cmsr. Houdek, for inviting us to tour the SVO last year. I felt like that was very informative. I hope that we continue to have opportunities to learn from each other and I thought that was very good in terms of helping us to understand the importance of what you're talking about - creditworthiness. There really is a lot that goes into it and I think I can speak for the other members that went to the SVO that we sort of understood that, but having gotten a chance to put our arms around it and realize just how big of an operation that actually is, we appreciate it. Cmsr. Houdek replied thank you and stated one last point that we made last year and we will continue to make as we're working through this due diligence framework process is the intention is to continue to rely on ratings that are provided by CRPs. The filing-exempt process is critical and the involvement of CRPs in that process has worked well. We're just adding some layer of oversight from the regulatory standpoint but we still very much want the CRPs to be involved in this.

DISCUSSION ON ARTIFICIAL INTELLIGENCE (AI) INCLUDING PREVIEW OF NCOIL GENERAL SESSION AND UPDATE ON THE NAIC'S AI-RELATED ACTIVITIES

Asw. Hunter stated that we're going to go to one of my favorite topics, AI. As we're all well aware on both the legislative and regulatory levels, AI does continue to impact the insurance industry and in response to that, seemingly every state feels a sense of urgency to enact laws on AI that strike a balance between making sure that consumers are protected and not hindering innovation. Tomorrow afternoon, we will be having a general session on this topic, titled "AI in Insurance: What is the Impact of Losing the Human Element?" The goal of our session is to gather some information as to how each line of insurance is utilizing AI and how each line views AI's benefits as well as problems. Afterwards, it's likely that our multi-lines issues committee will start discussing some potential model legislation to develop based on some laws that have been passed or introduced in several states. And I know from my perspective, I'm extremely interested in this because I do have a few bills in New York relative to AI. One requires insurers to notify insureds about the use or lack of use of AI-based algorithms in the utilization review process, and requires the insurance department to certify that these AI-based algorithms have minimized the risk of bias, based on certain things like the covered person's race, religious affiliation, age or gender. So, before we get into the NAIC's work in AI, I wanted to see if any of you would like to comment on what you have been seeing in your states in terms of AI-related legislation or regulation?

Cmsr. Yaworsky stated that generally speaking, there continues to be an extreme interest in what AI is doing within a lot of landscapes, including the insurance space. There's a lot of activity that is traditionally human-oriented with human knowledge and skill sets that is moving into an AI framework or another type of tool that can appear like AI. In Florida this past session, there are bills that ensure that there's a human component that remains in after any initial screening. For example, in a claim denial that might take place, if an AI process denies a claim, there must still ultimately be a human element involved in that process that ultimately is making the decision. And I think we're seeing laws like that attempt to generally ensure that there is a human piece of the puzzle that remains throughout the process. So, that's for the benefit of ultimately the consumer.

Asw. Hunter stated that the NAIC did have a model bulletin on the use of AI. Can you share an update with us of how many states have adopted the bulletin and then also touch on what the NAIC's next steps are related to AI in terms of other model bulletins or regulations or laws.

Cmsr. Yaworsky stated that the overall work of the NAIC on AI sits on the H-Committee and is in really primarily two working groups. The first one is big data and artificial intelligence directly. The second major working group within that committee is the third-party modeling working group. Each one has some overlap on the other but when we get to the model bulletin that was issued, 24 states have adopted that model bulletin. We think there will probably be more that use it along the way. The NAIC at this time has opted to move in the bulletin direction for this kind of issue. As we look at the big picture about how things are going, one thing that we're very conscious of is not over-prescribing a model law immediately that would suppress innovation. We do generally think that AI has great potential to reduce costs and claims handling and other things, but it's ensuring at the same time that that human element remains present and there's ownership over the technologies being employed. So I think the principles were the next step for the NAIC in terms of how it's going to look into this space and then separately, we have the third party modeling group. We'll see what develops with that over time. That is a huge other component that's related to AI and it's the modeling that goes into it with so many different outcomes and determinations that really breaks into the work of insurance and predicting what the future looks like to the best of its ability. And so, as we do that, we're going to try and do this thoughtfully, carefully, smartly, but appropriately. We're going to take the steps we need over time to put things forward that we think benefit the consumer.

Cmsr. King stated one of the things that we are also seeing is a tremendous amount of filings. And so the length of the filings are getting more and more complex and I see a world relatively soon where regulators will have to start using machine learning tools to go through these filings to determine what the difference is between this filing and the previous filing, because we can't staff human beings at the rate. The budgets of our states would not allow us to. And so we're going to have to start looking at the use of these tools to screen out things that we're sensitive to such as discrimination, redlining, and things like that. We're looking really hard at how to appropriately use those tools as regulators. Asw. Hunter stated anecdotally, I was actually a computer science major and in the first class that you take, they say, GIGO - garbage in, garbage out - when you're writing code. And my concern always with AI is that it's great when you're watching the videos online and it looks fun but if I use this in a health scenario you need to have eyes on a claim. If there's a denial, you need eyes on it because your provider knows you better than a computer algorithm will. And so, the garbage in or the information in will dictate what comes out relative to your claim. For example, you broke your neck, the algorithm says you need six physical therapy sessions, but your doctor knows you're not a very compliant patient and you're really going to need 12. These are the kind of intricacies that I am concerned about in spite of the great things that technology has done. Following up on one of the things mentioned, by the time we enact something, the technology is already ahead of us so how are we trying to combat this and still use technology to our advantage?

Cmsr. Yaworsky stated I think that's a great point and I think that's part of the NAIC's approach in this is to make sure that we're moving in a direction that doesn't overcompensate to the point that whatever it is we pass isn't irrelevant by the time it gets there. One thing in your comments that strikes me is that Florida is a state that has a modeling commission around hurricane catastrophe models. A number of agencies are a part of that, as well as private contractors, that actually unpack hurricane catastrophe models to understand what it is they're doing and then certify them. To your point about garbage in, garbage out, it doesn't necessarily certify the validity of the data or the uses of it, but it at least validates what it is saying it is doing all throughout that process. That data is providing a genuine outcome from that front and so I think that it's such a complicated discovery. You add an AI layer on say a model that is then using generative AI and making its own determinations about what is the weighting data and making its own sentiment about what is the most appropriate data to utilize. That would be an additional layer that is going to be a regulatory challenge in the coming decades. What we want to do in this space is be fully informed about what is taking place in the AI realm and then also about what the hazards are around that for the consumer or the market or the industry. And that's going to take a significant devotion of resources at the state level, the NAIC level, the NCOIL level and all these entities, perhaps at the federal level. But the bottom line is it needs to be monitored and we need to be aware and we need to know, at a minimum, that the things that that these AI tools or models are doing is appropriate and consistent with existing laws.

Cmsr. Godfread stated that I've been involved in this discussion really since the beginning of the NAIC's innovation task force and I think we're seeing the conversation evolve to all those points that we've discussed today but I think that it has also continued to evolve and I don't want to lose sight of that third-party vendor portion. We can pass insurance regulatory schemes, but we haven't really been able to find a good way to pierce that veil to get into that third-party vendor who is subject to our authority. We don't have authority over those technology providers and we're seeing a significant amount of growth in that space, and it's challenging to our industry. It's putting us as regulators in a challenging situation because we don't know quite how to get through that third-party piece yet. We have an entire working group that is tasked with trying to come up with that and again, I think we've kind of honed in on the point that the buck stops with the insurer, so you're responsible for your vendors' access and all those things but when it gets into wanting to see the contracts and what kind of things they've entered into for services with that third-party vendor, we've been pretty shielded from the confidentiality and proprietary pieces. And so it's somewhat naive of us to think that because we pass certain insurance-specific regulations on AI that it's going to somehow affect that broader service market. And I think you're seeing that all over the place. We just passed a law in North Dakota on prior authorization which has an AI piece in it stating that you cannot have prior authorizations done solely by AI. And I think we're seeing it cross lines now, too. It's traditionally in the property & casualty space and a little bit in the life insurance space. On the health insurance side it's really complex for us but it's coming. This will continue to grow and continue to evolve we've been working on this for the past eight years. You see the evolution over time and it's that third party vendor piece that is going to be a big question we all have to answer.

Rep. Oliverson stated that I think one of the questions that I always ponder on with this is that so many of these decisions that we talk about with regards to what AI may or may not be able to do, we sort of just say, "Well we're going to hold the insurance company accountable." The reality is when we talk about third parties, so much decision making is actually done by licensed professionals. Those are individuals who have demonstrated competency in an area and received training, but they also have a certain self-preservation motivation. If I'm an engineer and I review the plans for a condominium complex that ultimately collapses and takes a bunch of lives, I have civil liability, but my professional license is also on the line. And I just wonder, if you're making a decision about medical necessity on an insurance claim, that's the practice of medicine 100% every time and it can't be avoided. So, does a machine have self-preservation instincts when it comes to the importance of preserving its own licensure? And could you even license a machine? And if not, do we even have a system that exists from a regulatory framework to ensure that there actually are checks and balances with regards to good decision-making, whether you're an accountant or whether you're an engineer or a dentist or you're cutting people's hair? As human beings, that comes into play and I'm not sure that it does with machine learning. So, I'm just curious, have you all contemplated the regulatory aspects of how licenses for individuals that may be consulted play into what AI can and can't do safely?

Cmsr. Yaworsky stated that those are great thoughts and great points, and I think the answer is yes. And when we talk about ownership of that in the insurance space, let's take an actuary that is utilizing some sort of AI technology to help that actuary make a determination about something. In that case, the important feedback ultimately that we would probably want to find ourselves ending up at from a regulatory space is that's great that the actuary used that tool to help them, but at the end of the day, they could have utilized an abacus to find their determination. Either way, the determination is still from a learned professional, and in that case, that would be the actuary. When we talk about the development of this, both within companies or as regulators or as others, one of the key terms that keeps on coming up is “ownership of the tool.” Rep. Oliverson stated I get that, but we're talking mechanistically about AI and what I'm saying to you is that so much of what happens is based on someone's “professional opinion.” That doesn't strike me as being something that you can license a machine to do because there's no accountability. Cmsr. Yaworsky stated I think you're correct and that's why when we talk about that ownership, just because the learned professional, the licensee, utilized AI as part of their mechanic, they are still responsible for the ultimate outcome that it’s determining. It's that human factor. You can't place an AI in prison, at least not yet, or fine them a fee, but you can go back to the individual that employed that tool or utilization, and I think that's the framework that we would look at. Rep. Oliverson stated so your insurer would still need to have actuaries as human beings that are licensed professionals within that space in order for that to work - that's kind of what I'm getting at.

Cmsr. King stated that the way we communicated this is, you can use the tools, but ultimately the company and the individual is who’s feet we're going to hold to the fire. That's who we're going to go sanction, and that's who’s license we're going to go after if they mis-use these mechanical tools and the way I see this is the mechanical tools are there to take care of routine, repetitive tasks but there still has to be a human being that is accountable whether they use a calculator or something else. That's just a tool. It's the individual, the company, the person that we've licensed is who we're going to hold accountable. Cmsr. Yaworsky stated I would just add to that, similar to what Cmsr. Godfread mentioned earlier about third-party models, it's a similar concept if you just take the AI term out of that and replace it with a third-party model of some kind. Ultimately, in our view, if we receive a rate filing that has data or some sort of calculation that can implement a third party model, at least in Florida and a number of other states, it's not the third party model that's accountable for that, it's the insurer. But it gets very complex when you start asking “well who's watching the modeler that is building that model to make sure that that model is providing the product that the insurer thinks it’s getting at and they're providing to us for use?” All this is making sure that we're moving in a direction where we are encouraging its use but also that there are appropriate internal company safeguards and also regulatory safeguards in place along the way.

DISCUSSION ON INSURANCE AFFORDABILITY AND AVAILABILITY ISSUES

Asw. Hunter stated that the next thing I wanted to bring up relates to insurance affordability and availability issues and I think that's at the forefront of every person's mind and something that comes to us via our constituents. And I'm sure you know with your conversations with insurers, things haven't gotten better right now and the headlines about insurance rates and insurers leaving markets started appearing in national news outlets. Obviously, we're all a little shocked. I know I got a little gut punch with my increased premium from my property & casualty policy but I think we'd all be hard-pressed to say things have improved a lot and in some instances, things have probably gotten worse particularly out in California due to the wildfires earlier this year. Tomorrow, during our Property & Casualty committee we'll be hearing from Cmsr. Yaworsky about some steps Florida's taking to improve the property insurance markets there but before that I think it's a great opportunity for us all together here to share some experiences you've been seeing in your states and some work they've been doing on these issues both from an individual state and NAIC perspective.

Cmsr. Yaworsky stated the issue I think we all face is the viability of property insurance within our states. It has been a pressing issue. I think Florida probably experienced the impact first, but it is spreading to other areas of the country as well in a concerning fashion. The NAIC has taken this issue on under Cmsr. Godfread's term as President. One initiative particularly revolves around an affordability playbook that is designed to ultimately be a product that can be given at the consumer level to help them understand what is driving the insurance cost, what could be done about it, and what can you do in your own arena to provide a matrix to help explain the situation around insurance. More broadly speaking, when it comes to insurance, the capital must come from somewhere to cover a loss and what we are experiencing in the property space, as well as the auto space, is the inflation-driven performance that we have seen over the past several years has been remarkable. Just to give a Florida example, the total insured value of Florida's property insurance market, which is how much it would cost to replace the totality of that marketplace, has nearly doubled in four years. And with that comes along the labor and goods and everything to put someone in that home. When you're buying more bricks of insurance at a certain rate, your premium is going to go up. And that's what a number of consumers are experiencing. And you combine that with state-by-state experiences, it has been a challenging marketplace for companies to operate in. It's been a challenging environment for consumers to purchase insurance. But I think longer term, when we spoke about mitigation or resiliency earlier, it is truly the thing that I think we need to be focusing on as regulators. It's probably the most important, but it's also the thing that is not the easy win. Since I've started talking about this in Florida and elsewhere, I'm always reminded of a quote that "societies grow great when people plant trees which they will never sit in the shade of." And that is really the story of mitigation and resiliency. Just looking at Florida's history, we're just now seeing some of the benefits of hardening our building code in 2003. We're just now seeing that building inventory be significant enough where the state can move in a direction of potentially having a viable insurance market. It's kind of hard to imagine what Florida's market would be like without that but I think broadly, this is top of mind for all of us – it's affordability and availability and I would also add reliability. The only thing worse than a consumer's insurance rates going up is a consumer's insurance rates going up and then that company not fulfilling that obligation to make someone whole again on the worst day of their life. And so, there's multiple elements to this. It's extraordinarily complicated.

Cmsr. Godfread stated I'm not sure what levers we can pull at the state level to have that immediate impact but I think as we look at the structure of our market, you're seeing more discussion around the cost of insurance and it may even be starting to impact the ability to purchase a home. To Cmsr. Yaworsky's point, you've got to look at the underlying cause of some of that. In North Dakota alone, our materials are up 30%, our labor is up 20%. That's going to be reflected back in rate. It just has to be and there's nowhere else for that to go and that's a really hard conversation to have with the consumer. In North Dakota, it's really hard for me to say, "Well, at least it isn't 40%." I mean, a 20% rate increase is a 20% rate increase. I don't care what's going on in other states. And that's on top of other inflationary pressures they've been feeling at the grocery store. Now all of a sudden I have another 20% on my home, and how am I going to continue to afford to do this? And so we're trying to have that conversation. It's really hard in a state like North Dakota to have that conversation around mitigation because we don't even have that catastrophe and I think that's an opportunity for us to come together and have that conversation before the disaster happens. How do we have that broader discussion of if we start taking the steps now in the Midwest or we start taking the steps now in wherever your state is, it will benefit everyone. Again, you're planting that tree that you'll never enjoy the shade of. And we're eventually going to get there. We're eventually going to have to get to the point where you've got hardened homes or fortified homes or whatever tool you want to use to have that resilience to be able to have and maintain a viable insurance market. It's a matter of when do you want to start that discussion, and that's a challenge.

Asw. Hunter stated I think some of the conversation needs to include neighborhoods being responsible for mitigation. I think that's very important. And building codes need to be changed. There are a lot of people and influence out there that want things to remain the way that they are and one of the things that we find, especially as we're passing state laws for the lawmakers here, is that municipalities want to be able to do what they want to do in their neighborhood to keep it however it is, whether it's a “not in my backyard approach” or whether they like the neighborhood the way that it looks. But we can't force them to do something and I think it's getting to the point where I can't force you to be a good neighbor and really take into consideration mitigation because they're worried about school budgets, they're worried about picking up trash and police and fire, but really at the local level there needs to be some sort of responsibility, accountability, and conversation relative to that's where it starts.

Cmsr. Godfread stated I think you see how this plays out long-term and I'm not here to pick on any particular state, but you see how this can play out in California and then your insurers leave. If there isn’t an incentive, if there isn't a risk mechanism, if the community hasn't taken the appropriate steps to protect that risk or to mitigate that risk or that community, there is little to no incentive for an insurer to invest in that community. And so that's how that plays out long-term, and that's a challenging conversation to have because until it's a problem, it's not a problem. Until it's immediate and then it’s, “Commissioner, why are you letting this insurer leave?” Well, I don't have a law in my books that says “thou shall write certain risk.” Nobody has that law, and nobody should have that law. But it's understanding that's a risk transfer. There's an investment there being made by the insurance industry, by the community, and by the consumer, but they all have to play together, and if one of those three legs of that stool falls over, it's a challenge to have a market there.

Cmsr. King stated that in Georgia, we pursue all these great levers, but what we've done is we share half of the insurance premium tax with every city and county in the state. I've gone around the state advocating for our legislature to start putting some strings on that money and how that money is distributed back to local communities so we know how that mechanism works. Communities will do things when they know that there's something at stake. And I used to be a local police chief and I used to hear all the folks talking about affordable housing but there was a sense of “well, not in my neighborhood.” So I get it but I think once you start putting that carrot and stick out there, that's how we're going to get movement. That's where the legislature has got plenty of levers because I think that's the only way that we're going to get moving in the right direction. The premium insurance taxes of insured local communities ought to be used to reduce overall risk because we know that if we reduce risk it is going to lower insurance rates for their properties. Those are the things that I would recommend taking a look at.

UPDATE ON WORK OF NAIC’S LONG-TERM CARE ACTUARIAL (B) WORKING GROUP

Asw. Hunter stated that our last agenda topic is long-term care insurance and a multi-state review approach that the NAIC is currently working on. This is the biggest cost related to Medicaid in New York and probably across the country so I’d like to hear what you all are working on relative to this in your working group.

Cmsr. Mulready stated that before I cover that issue I just want to acknowledge the progress we've made with our two organizations. I know I sound like a broken record and I say this a lot, but we have made great progress. We have eight commissioners here and we have two of our Officers here so I just want to acknowledge that. With long-term care, it's been a big issue. Everyone's trying to get a grip on that important coverage and rising premiums. In 2022, the NAIC established this long-term care insurance multi-state actuarial review framework. Basically, the thought is they file with that group because many of us don't have those individual resources within our departments, then they develop some recommended rate increases. The states are then allowed to use those or not. It's not a mandatory thing, but there's a centralized resource of multi-state actuarial processes. In 2024, the Long-Term Care Working Group was charged with developing a single long-term care multi-state review process. At the time, there were two. We had Minnesota and Texas and they were two different approaches. That seemed a little bit confusing for folks so then there was the attempt to move to one approach and have a more transparent and explainable single methodology. And Minnesota's approach was chosen. The Working Group now has some open comments on some proposed sets of modifications. The comment period is open until May 12th throughout this year. That will then go through the Task Force and under the B Committee, which I chair at the NAIC this year. Then ultimately the proposal will go to our Executive Committee and plenary, and hopefully be approved there.

Asw. Hunter stated that in either our summer or fall meeting we'll be having a panel on developments in long-term care insurance, and we'd definitely like for the NAIC to be part of that conversation and share your perspective and the work that you've been doing with the framework. This is a huge cost to all of us in all of our states and we definitely need to get a handle on this the best way we can.

ANY OTHER BUSINESS

Brad Nail, representing Airbnb, thanked the Committee for the opportunity to speak and stated that Airbnb was directly referenced earlier in the comments around the rental home marketplace model act and I just would like to point out that we look forward to addressing these issues that were raised during the committee tomorrow. And the model itself is in fact the product of extensive discussions with insurance trade groups and is really tailored also to meet the concerns of the insurance industry. We look forward to speaking about this further tomorrow.

ADJOURNMENT

Hearing no further business, upon a motion made by Rep. Carter and seconded by Rep. Oliverson, the Committee adjourned at 3:15 p.m.