

## **PRODUCER LICENSING (EX) TASK FORCE**

Producer Licensing (EX) Task Force December 7, 2009, Minutes

Limited Lines Discussion November 24, 2009 (Attachment One)

Producer Licensing (EX) Working Group December 7, 2009, Minutes (Attachment Two)

Producer Licensing (EX) Working Group November 2, 2009, Conference Call Minutes (Attachment Two-A)

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Producer Licensing (EX) Task Force  
San Francisco, CA  
December 7, 2009

The Producer Licensing (EX) Task Force met in San Francisco, CA, Dec. 7, 2009. The following Task Force members participated: Linda S. Hall, Chair (AK); Sharon P. Clark, Vice Chair, represented by Treva Wright-Donnell (KY); Steve Poizner represented by Keith Kuzmich (CA); Susan E. Voss represented by Tom O'Meara (IA); William W. Deal (ID); James J. Donelon represented by Ron Henderson (LA); Roger A. Sevigny represented by Barbara Richardson (NH); Neil N. Jasey represented by Anne Marie Narcini (NJ); James J. Wrynn represented by Jack Chaskey (NY); Mary Jo Hudson represented by Susan Real (OH); Kim Holland (OK); and Leslie A. Newman (TN). Also participating were: John Kissling (IN); and Alan Wickman (NE).

1. Discuss Business Entity Licensing

Director Hall said a document listing suggested options for the simplification of the business entity licensing process has been distributed for review. She asked for feedback on the list of issues for discussion, such as eliminating the licensing of business entities by line of authority or eliminating the requirement for individual producer appointments if the business entity is appointed.

Mr. Chaskey said New York is interested in tracking business entities and the individuals who control business entities to make sure these individuals have not been prohibited from obtaining an insurance producer license. He said New York wants to make sure producers have appropriate expertise for the product being sold. Director Hall asked if the goals of New York require the licensing of business entities by line of authority. Mr. Chaskey said at least one producer working for a business entity should have the same line of authority as the business entity.

Director Hall asked whether states could appropriately track producers and business entities without licensing business entities by line of authority. She said a Designated Responsible Producer (DRP) for a business entity is responsible for the overall operations and accountability of the business entity. She said the accountability of a DRP may be lost if the business entity has three DRPs with separate lines of authority that match the business entity's line of authority.

Mr. Chaskey said the DRP should be a licensed producer but should not be required to have every line of authority the business entity has. Ms. Wright-Donnell said a DRP is responsible for compliance but may not be selling insurance. Mr. Henderson said Louisiana is eliminating the requirement for a business entity to have a DRP, but does require a business entity to have at least one producer with a matching line of authority for every line of authority the business entity has. Ms. Narcini suggested eliminating the licensing of business entities by line of authority. Ms. Narcini said a business entity should have one DRP for compliance, and each individual producer will remain responsible for his/her actions. Ms. Real suggested that business entities continue to be licensed by line of authority, but that the DRP should not have to be licensed for every line of authority the business entity has.

Mr. Kissling said insurance companies used to appoint agents and were responsible for them; however, agents began doing business as business entities to limit their liability and for tax reasons. With this, insurance companies began contracting with and appointing business entities.

Mr. Kuzmich said business entities should be licensed by line of authority because this helps consumers know that the business entity has the proper authority and helps insurance regulators with the pre-approval of names. For example, he said, a business entity using the word "excess" in its name should be selling surplus lines insurance.

Wes Bissett (Independent Insurance Agents & Brokers of America—IIABA) said there is no need to appoint DRPs by line of authority because a DRP can manage and oversee the compliance of a business entity without a line of authority. Mr. Bissett said a DRP who is selling insurance would need to have the appropriate line of authority for the insurance being sold.

Nicole Allen (Council of Insurance Agents & Brokers—CIAB) said the issue of affiliations is the first issue that should be addressed. She said the requirement for a business entity to list all producers affiliated with it can be a big administrative burden if a business entity has a name change. She said the requirement for business entities to be licensed by branch location is also a priority issue for her association. Mr. Henderson questioned why the tracking of producers affiliated with a business entity is problematic, as the business entity should already be tracking this. Ms. Allen said the tracking is not a problem, but the reporting process to the states can be difficult. Ms. Real said state insurance regulators need to know what producers are

working for a business entities for enforcement reasons. Mr. Kuzmich agreed and said that in California, producers are required to affiliate with a business entity but do not have to be appointed by an insurance company.

Jim McIntyre (McIntyre Law Firm) said business entities should not be licensed by line of authority, as individual producers are selling insurance, not the business entity. Mr. McIntyre said individual producers are licensed by line of authority.

Dave Leifer (American Council of Life Insurers—ACLI) said the Task Force should focus on eliminating or simplifying the branch location licensing requirement.

Larry Kibbee (Liberty Mutual) said the Task Force should simplify the appointment process. He said a business entity has to be appointed, and some states also require the business entity to be appointed by branch location. He suggested the Task Force clarify whether an insurer's appointment of a business entity eliminates the need for the insurer to appoint the individual producers working for the business entity.

## 2. Update on NAIC/Industry Producer Licensing Coalition

Commissioner Newman said the NAIC/Industry Producer Licensing Coalition discussed the National Insurance Supervisory Commission (NISC) discussion draft. Comments were focused on: 1) a recommendation to focus the discussion on elements of the NISC that are essential to state reform versus elements that may perhaps be less essential; 2) the process for the development of standards and stakeholder involvement and input in this work; and 3) the governance of the NISC.

Commissioner Newman said the Coalition received a report from NAIC staff regarding the plan for continued outreach to states over the next several weeks. The purpose of this outreach will be to continue prior-year commissioner-to-commissioner outreach in an effort to update the status of states' efforts to achieve producer licensing uniformity and reciprocity goals established by the NAIC membership. The goal is to provide an update of state compliance and progress toward these goals in a report to the NAIC membership by the 2010 Commissioners Conference.

Commissioner Newman said the Coalition received an update from NAIC staff regarding the NARAB (EX) Working Group's reciprocity review process.

## 3. Update on NIPR Activities

Director Hall said phase II for the Attachments Warehouse Program—Reporting of Actions (ROA)—has been a success, with 32 states confirming that they will participate in the ROA. The Attachments Warehouse is designed to be used for the electronic filing of licensing documents that are submitted by applicants when applying for or renewing insurance producer licenses, or to allow insurance producers to satisfy their requirements with respect to the notification and reporting of all administrative, criminal and civil (if applicable) actions. Once an attachment is submitted online via the Attachments Warehouse, a notification is e-mailed to the requesting state(s).

## 4. Report of the NARAB (EX) Working Group

Director Hall reported that the NARAB (EX) Working Group has not met since the Summer National Meeting. She said states have been asked to complete a reciprocity checklist to outline areas of compliance and noncompliance with revised NAIC reciprocity standards. To date, 12 checklists are posted on the NAIC Web site, and interested parties have been given 30 days to comment on each state checklist. The NAIC Legal Division will review the checklists and research state laws and comments from interested parties prior to compiling a final report to the Working Group in 2010.

## 5. Report of the Producer Licensing (EX) Working Group

Ms. Narcini reported that the Producer Licensing (EX) Working Group discussed the status of its limited lines charge for 2009 and has presented a report to the Task Force requesting that the Task Force review their progress for the year and provide further guidance for 2010. The Task Force concurred with Ms. Narcini's recommendation that the Working Group develop the licensing requirements for each core limited line and then finalize the definition for the ancillary line of insurance (Attachment One).

Ms. Narcini said the Working Group received an update from the Federal Emergency Management Agency (FEMA), which offered assistance to state insurance departments on their advanced flood insurance training program. The Working Group was asked to encourage state insurance departments and their vendors to waive the fee for filing continuing education credits for National Flood Insurance Program (NFIP) training. In addition, FEMA asked the Working Group to discuss other ways

that the NAIC can encourage state insurance departments to give special consideration to NFIP training-related issues. Ms. Narcini said the Working Group received a status on revisions to the NAIC uniform application and was notified that the applications would be implemented Jan. 29, 2010. Ms. Narcini said the Working Group discussed its possible tasks for 2010, which include developing an NAIC uniform application for claims adjusters, updating the *State Licensing Handbook* and reviewing the process for effective dates for organizational name changes for business entities.

Ms. Wright-Donnell made a motion to receive the report of the Producer Licensing (EX) Working Group. Ms. Richardson seconded the motion. There was no further discussion, and the report was received (Attachment Two).

6. Any Other Matters

Director Hall directed NAIC staff to coordinate with Ms. Narcini on scheduling the next Producer Licensing Roundtable call.

Mr. Wickman said the revisions to the Third-Party Administrator Guidelines being finalized by the Large Deductible Implementation Study (C) Working Group would be referred back to the Task Force for further review.

An interested party raised the need for more states to adopt the NAIC's Independent Adjuster Licensing Guideline and for NIPR to implement the necessary programming so that independent adjusters can elect a home state for non-resident licensing purposes and obtain such licenses electronically.

Having no further business, the Producer Licensing (EX) Task Force adjourned.

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**DATE:** November 24, 2009

**TO:** Linda Hall, Chair of the Producer Licensing (EX) Task Force

**FROM:** Anne Marie Narcini, Chair of the Producer Licensing (EX) Working Group  
Linda Brunette, Vice Chair of the Producer Licensing (EX) Working Group

**RE:** Report on the Producer Licensing Working Group Limited Lines Discussion

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As a part of the 2009 charges presented to the Producer Licensing Working Group, the Working Group was asked to review limited line licensing issues with particular focus on the following: (1) the establishment of a limited line that encompasses several insurance products where the business of insurance is ancillary to the business of the person offering the product, (2) the licensing requirements of individuals selling limited line insurance products, and (3) the fingerprinting of individuals selling limited line insurance products.

#### **Process to Address the Charge**

The Working Group's initial discussion on this charge took place within the first quarter of 2009. During the 2009 Spring National Meeting, the decision was made to first establish the ancillary line definition. During the 2009 Working Group's interim meeting, the Working Group was presented with four different ancillary line definitions. The Working Group discussed the four draft options and overall benefits of establishing a definition for the ancillary line before moving forward with the other two parts of the charge. At that time, the Working Group believed it was beneficial to define what would be encompassed within the ancillary line definition before addressing licensing and fingerprint requirements.

During the 2009 Summer National Meeting the Working Group reviewed the types of limited lines offered in each state, whether both individuals and business entities are required to be licensed, and licensing and fingerprinting requirements as they currently exist in jurisdictions. The Working Group had more discussion on the purpose behind the creation of the ancillary line. Many limited lines available among the states, including several "core" limited lines, would be considered incidental to the product or service that is offered by the seller and therefore debate ensued regarding whether all such products should fall under the ancillary line definition.

The Working Group held three conference calls devoted exclusively to discussion of the limited lines charges in July, August, and September. The focus of the calls involved the types of limited lines that would fall under the ancillary line and what licensing requirements would be necessary for individuals with the ancillary line of authority. It appeared that the Working Group had reached informal consensus on a definition, but as soon as licensing requirements were discussed, some members changed their view on the definition and proposed additional changes.

In addition to the draft definitions discussed by the Working Group, John Fielding (Steptoe & Johnson LLP) had submitted a proposal on behalf of the U.S. Travel Insurance Association (USTIA), concerning the structure of the ancillary line and supported including core limited lines within the definition. He explained that not only do some states still not have travel as a separate limited line, but there are many differences in how states treat the same line. Their proposal included licensing the "wholesale business

entity” and a specific wholesale level producer responsible for training of those offering the product and regulatory compliance. This person would maintain a listing of those who offer the product. The individual would be licensed while those offering the product would be registered.

It appears that inclusion of this proposal into discussions added to the resistance of some Working Group members to establishing any change in the current process. The primary issues of debate and discussion included:

- Whether to include “core” limited lines within the definition of the ancillary limited line. Some regulators argued that by definition, lines like travel, car rental and possibly credit should be included since they represent insurance products that are incidental to the product being sold, while others did not want them included since they are already listed as “core” limited lines.
- Some regulators expressed concern with a new ancillary line definition because they believed implementation would require a legislative change and they had already implemented changes to achieve uniformity.
- Some regulators objected to any changes that would allow those who sold these products to not have to be specifically licensed. Although there was discussion about the group enroller exemption from licensure, they argued that either these were not always group products and therefore not covered by the exemption or, that in some cases, the person received some sort of commission or incentive and therefore should be licensed.

As a result of the debate and to address concerns expressed by some Working Group members, a new document was presented for exposure and comment in October that revised the ancillary limited line to remove reference to travel and car rental, but gave states the option to include it if they wished. The proposal provided two options for consideration for individual limited lines applicants regarding fingerprinting requirements.

Although this proposal appeared to satisfy some Working Group members, others felt it did not implement changes to make the process more efficient and effective. Industry representatives responded negatively to the proposal as well. Based on written comments, the Chair made a decision to return to focus on a discussion of the definition of an ancillary limited line in order to at least accomplish one part of the charge and to establish a framework for determining the processes for the next two prongs of the charge. A new definition was proposed with a drafting note that was intended to address those jurisdictions that did not wish to move forward because they did not want to make legislative changes. The idea was that if a jurisdiction only had core limited lines, it need not make changes unless it wished to; however, jurisdictions with multiple additional limited lines could roll them all under the ancillary definition and eliminate non-uniform added lines. The proposed definition was:

Limited Lines Ancillary Insurance: Specific types of insurance offered, solicited, or sold to the consumer under an individual policy or enrolled in a group or master policy as an add on in connection with and incidental to non insurance goods or services, including coverage for (i) pet, (ii) self-service storage, (iii) mobile communication; (iv) travel, (v) car rental, or any other similar coverages as designated by the insurance commissioner.

Drafting note: Jurisdictions not adopting an ancillary line definition may consider travel and car rental as separate named limited lines; however for the purpose of licensing requirements and electronic licensing, these limited lines will be treated in the same way as the ancillary definition

During the Nov. 2, 2009 conference call the Working Group again discussed the definition. It was apparent that there were two fairly even “camps” within the group; those wishing to define an ancillary line but not include any core limited line and those who believed any line that met the definition of

ancillary should be included within the definition. The regulators in the former group either opposed including core limited lines due to the need for statutory or rule change or because they were opposed to a simplified licensing process for any core limited line. One of the regulators opposed to including any core limited line in the definition made a motion to adopt the following definition:

Limited Lines Ancillary Insurance: Specific types of insurance offered, solicited, or sold to the consumer under an individual policy or enrolled in a group or master policy as an add on in connection with and incidental to non insurance goods or services, including coverages as designated by the insurance commissioner.

The Working Group took a roll call vote and the motion did not pass. Seven states voted against the motion and six states voted in favor of the motion. (No – NJ, AK, FL, NE, NH, NY, NV / Yes – CA, DC, MN, MS, PA, TX)

The Working Group was then presented with a second motion to adopt the following definition with the specific limited lines referenced in definition and a drafting note added.

Limited Lines Ancillary Insurance: Specific types of insurance offered, solicited, or sold to the consumer under an individual policy or enrolled in a group or master policy as an add on in connection with and incidental to non insurance goods or services, including coverage for (i) pet, (ii) self-service storage, (iii) mobile communication; (iv) travel, (v) car rental, or any other similar coverages as designated by the insurance commissioner.

Drafting note: Jurisdictions not adopting an ancillary line definition may consider travel and car rental as separate named limited lines; however for the purpose of licensing requirements and electronic licensing, these limited lines will be treated in the same way as the ancillary definition.

The Working Group took another roll call vote and the motion passed. Eight states voted in favor and six states voted against the motion. (Yes – NJ, AK, CA, FL, NH, NV, PA, TX / No – DC, MN, MS, NE, NY, WV).

### **Issues for Discussion**

The main point of continued debate is whether to include the specific lines of authority, including some of the core limited lines, within the definition of the ancillary line of authority. Some states believe the core limited lines should be excluded because many states recognize these core limited lines as separate lines of authority. Other states believe the core limited lines of travel and car rental should be included in the definition to ensure any licensing requirements for the ancillary line of authority also apply to these core limited lines. As reflected in the motion, the Working Group decided to include specific limited lines within the definition; however it is apparent that there is no clear consensus on this definition.

The Working Group has not resolved what the licensing requirements should be for the ancillary line of authority nor what, if any, fingerprint requirements should apply to individuals selling limited line insurance products. Because of the opposing views outlined previously, it is not clear that consensus on these two other items will be readily accomplished without further direction from the Task Force.

### **Suggested Recommendation – Further Feedback Needed**

As Chair and Vice Chair of the working group, we recommend that the Task Force table the definition of the ancillary line of authority until the licensing requirements, including guidance on the fingerprint requirements, are established for the ancillary line of authority. In addition, because of the opposing views among working group members and given the charge to streamline the process for licensing of those whose insurance lines are incidental to the product actually sold to the consumer, we ask that the Task Force provide us with further guidance on the extent of the changes it wishes to implement. Specifically:

- Should ancillary type insurance products have less rigorous licensing requirements than other limited lines (such as crop insurance or surety)?
- Does the Task Force wish to include previously defined “core” limited lines that are incidental in nature within an ancillary line?
- Does the Task Force wish the Working Group to pursue any changes that may require modifications to the Producer Licensing Model Act.

Once guidance is provided and the licensing requirements are developed, the Working Group can revisit the definition of the ancillary line of authority to determine if all or just some limited lines should be included within the definition of the ancillary line of authority. This would include a final resolution on what, if any, core limited lines should be included within the definition of the ancillary line of authority and the appropriate licensing requirements to apply to the core limited lines.

The Working Group could pursue the development of the licensing requirements through either developing a new set of uniform licensing standards for limited lines or modifying the Producer Licensing Model Act (PLMA). Fingerprint requirements are not addressed within PLMA and therefore would be addressed through changes to uniform licensing standards.

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Producer Licensing (EX) Working Group  
San Francisco, CA  
December 6, 2009

The Producer Licensing (EX) Working Group of the Producer Licensing (EX) Task Force met in San Francisco, CA, Dec. 6, 2009. The following Working Group members participated: Anne Marie Narcini, Chair (NJ); Linda Brunette, Vice Chair (AK); Keith Kuzmich (CA); Luther Ellis (DC); Dave McKee (KS); Ron Henderson (LA); Matt Barton (MO); Robert Commodore (MN); Barbara Richardson (NH); Jack Chaskey (NY); Joy Miller (NV); Peter Camacci (PA); and Mike Riley (WV).

1. Adoption of Nov. 2 Conference Call Minutes

Mr. Ellis made a motion to adopt the Nov. 2 conference call minutes. Mr. Henderson seconded the motion. There was no additional discussion, and the minutes were unanimously adopted (Attachment Two-A).

2. Discuss Limited Lines Charge

Ms. Narcini stated that the Working Group presented a report to the Producer Licensing (EX) Task Force that summarizes the Working Group's process for the year. Ms. Narcini stated that there are no deliverables that will be presented to the Task Force. Ms. Narcini stated that the Working Group's discussion has provided insight on the proper direction for resolution as the Working Group moves forward.

Ms. Brunette stated that the Working Group's movement over this past year has seemed to have gone in a circular motion. For example, the Working Group came to an agreement on the definition of ancillary line and then discussion started on the licensing requirements. The licensing requirements discussion caused the Working Group to review the definition again and new suggestions would be brought up for consideration. As a result, little results have been made on the limited lines charge.

Ms. Brunette stated that the Working Group narrowly adopted language for an ancillary line definition during the Nov. 2 conference call; however due to the split within the Working Group on those who supported and opposed the definition, the chair and vice chair recommended that the adopted language be tabled until licensing requirements — including guidance on fingerprinting — have been reviewed and determined for limited lines. Ms. Brunette stated that the new charges for 2010 should provide better direction on how the group should proceed.

Ms. Brunette stated that the plan moving forward is for the Working Group to review the core limited lines, line by line, to discuss and determine the licensing requirements, including fingerprinting. Ms. Brunette suggested that the schedule for the limited lines start with crop then move to surety, car rental, travel and credit. Ms. Brunette stated that, after the core limited lines have been reviewed; the Working Group would be able to go back and review the adopted definition for ancillary line and determine whether it would fit for what they have discussed. Ms. Brunette stated that, once this process has been completed, the Working Group might decide that an ancillary line is not required. Ms. Brunette stated that, once the charges for the Working Group are made public in 2010, there might be a conference call scheduled prior to the 2010 Spring National Meeting to further discuss the new charge and the Working Group's role.

Mr. Commodore stated that he would like to see a survey distributed to all of the states discussing the licensing requirements for core limited lines and other limited lines, because he believes that, as a result of discussions this year, many licensing directors might have formed opinions on what they believe the requirements should be for various limited lines. Ms. Narcini stated that she agreed with Mr. Commodore's suggestion and emphasized that it would be important for the states to look at the big picture, focusing on the overall goal, and not just consider how each jurisdiction individually reviews limited lines.

Mr. John Fielding (Steptoe and Johnson) voiced agreement with the newly suggested plan for the limited lines charge and encouraged the use of a smaller subgroup to discuss the issues and create a draft document for each call to help the Working Group stay focused on the charge.

Ms. Narcini stated that she would like to recognize the work that Ms. Brunette has completed this year regarding the limited lines charge. Ms. Narcini stated that this charge has had a lot of discussion and became more of a challenge than anyone could have expected.

3. Flood Update/FEMA Status

Harriet Kinberg (Federal Emergency Management Agency—FEMA) addressed a letter issued to the Working Group discussing the National Flood Insurance Program (NFIP). Ms. Kinberg stated that FEMA appreciates the continued support from the NAIC and this Working Group. Ms. Kinberg stated that it is FEMA's understanding that the NAIC recognizes the Federal Crop Insurance Corporation as a federal program; therefore, it is not subject to certain state requirements that apply to non-governmental approved education providers for insurance producer testing and continuing education. Ms. Kinberg stated that FEMA is asking the states to recognize the NFIP in the same way.

Ms. Kinberg stated that FEMA is asking the NAIC to encourage state insurance departments and their vendors to waive the fee for filing continuing education credits for NFIP training. Ms. Kinberg stated that FEMA also would like to discuss other ways that the NAIC can encourage state insurance departments to give special consideration to NFIP training-related issues. Three ideas were given: 1) Provide FEMA with updated electronic mailing lists of license insurance agents free of charge; 2) Afford continuing education credits for NFIP webinar classes completed by insurance agents; and 3) Expand the one-time NFIP education requirement for insurance producers to a biannual requirement.

The Working Group discussed the request from FEMA. Ms. Narcini advised that this would be a suggested topic to present to the Task Force for the Working Group's priorities in 2010.

4. Electronic Issues Update

Ms. Narcini stated the Working Group has been provided a chart that discusses the NAIC/NIPR Attachments Warehouse for the reporting of actions. Ms. Narcini stated that all jurisdictions have been encouraged to participate in the Attachments Warehouse, noting that the current chart shows those states that have confirmed participation and whether they have issued a bulletin or other notification at this time. Ms. Narcini stated that that states should notify the NAIC/NIPR once they have issued the bulletin or other notification.

Mr. Ellis stated he would like to inquire about the status concerning the discussion during Nov. 2 conference call when the Working Group unanimously agreed and adopted the motion for NIPR to pursue research and development of adding a question outside the NAIC uniform application on the electronic process for new and renewal applications that asks individuals whether they have, or will be, submitting information to the Attachments Warehouse. Susan Maldonado (NIPR) stated NIPR has been working on this task and has determined the language to be used. Ms. Maldonado stated that NIPR would continue to move forward.

5. Discuss Potential Task for 2010

Ms. Narcini stated that she would like to have the Working Group discuss possible priorities for 2010. Ms. Narcini explained that the actual priorities for 2010 would be handed down from the parent committee, but it is possible for the Working Group to make suggestions. The Working Group discussed possible priorities for 2010. Ms. Narcini confirmed that any prior priority or charge not completed for 2009 would be added to the list of suggested priorities for 2010. The Working Group, interested regulators and industry representatives further discussed these items

Mr. Chaskey stated that, at prior meetings, he has suggested the idea of establishing electronic warehouse capabilities for state insurance departments to submit and file formal documents when they have completed a regulatory action that can be reviewed for by other jurisdictions at a later date if the producer applies for or renews a license. Ms. Narcini stated that she was not certain such functionality would fall under NIPR; rather, it would appear to be related to the NAIC Regulatory Information Retrieval System (RIRS) and possibly something for the new Market Information Systems (D) Task Force to consider.

Ms. Richardson stated the Working Group had discussed in prior meetings about the creation of the uniform adjuster application. Ms. Richardson inquired as to the current status of this project and requested that it be considered as a priority for 2010. Laurie Wolf (NIPR) stated it would be beneficial if the Working Group created the uniform application prior to the

electronic application being completed. Ms. Narcini confirmed that this would be a topic added as the Working Group's suggestion for 2010 priorities.

Wes Bissett (Independent Insurance Agents and Brokers of America—IIABA) stated he would like to submit two items as potential areas for the Working Group to review in 2010. Mr. Bissett stated that the first area relates to the NAIC uniform application attestation regarding appointing the commissioner as the agent for service of process. Mr. Bissett stated that there are agents that have been given misinformation and told they must pay to appoint someone as agent for service of process, despite the language on the uniform application. Mr. Bissett stated that IIABA also encourages the NAIC to review whether producers should have more control concerning documents they submit to the Attachments Warehouse and whether they could have the option to remove or issue supplemental information.

Ms. Narcini stated both items would be added to the list, but would also request that more information or documentation be provided regarding the first item because this was a new issue to members of the Working Group. Mr. Bissett responded that he would be happy to provide more information.

Gene Reed (DE) stated he would like to discuss the topic of agency name change. Mr. Reed stated that Delaware recently approved the name change for agency to be effective Jan. 1, 2010. Mr. Reed stated that it was the intent to begin releasing foreign name change packages for the agency within the next few weeks. The agency staff began talking with quite a number of foreign states regarding the fact that they would be filing in the near future to reflect the agency name change effective Jan. 1, 2010. The goal was to give the foreign states enough processing time to be able to have a seamless name change take place across all of the states on the common effective date of Jan. 1, 2010. Mr. Reed stated that many of the states conveyed that they would not process on a given date and/or the file would be processed and the name changed effective on the date they received/processed the package, regardless of any date specified. Mr. Reed stated that the lack of a common effective date could have implications, not the least of which is managing compliance. Mr. Reed stated that Delaware would appreciate a discussion on the need for uniformity as to a name change effective date with the appropriate NAIC committee chairs.

The Working Group discussed this topic. Ms. Narcini stated this appeared to be an area where quick guidance could be provided and that it would be added to the list of items for 2010 priorities. Ms. Narcini confirmed that the entire list of items would be presented to the Producer Licensing (EX) Task Force in the Working Group's report for consideration when determining priorities for the 2010 changes.

#### 6. Any Other Matters

Ms. Narcini confirmed that revisions to the uniform application were adopted and the changes were made and are available on the Working Group's Web page. Ms. Narcini stated that NIPR has provided an electronic implementation date of Jan. 29, 2010. Ms. Narcini stated the hardcopy versions are available, but should not be used until the electronic implementation process is completed Jan. 29, 2010.

Ms. Narcini stated that the 2010 E-REG conference will take place May 3 – 5, 2010. Ms. Narcini stated that this year the Working Group's interim meeting would take place prior to the conference, on Sunday, May 2, 2010.

Mr. Chaskey stated that he would like to acknowledge John "Mickey" Braun's (UT) recent retirement. Mr. Chaskey stated that Mr. Braun should be recognized for the work he has completed during his years with the Utah Insurance Department and the NAIC.

Having no further business, the Producer Licensing (EX) Working Group adjourned.

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Draft: 12/3/09

Producer Licensing (EX) Working Group  
Conference Call  
November 2, 2009

The Producer Licensing (EX) Working Group of the Producer Licensing (EX) Task Force met via conference call Nov. 2, 2009. The following Working Group members participated: Anne Marie Narcini, Chair (NJ); Linda Brunette, Vice Chair (AK); Keith Kuzmich (CA); Luther Ellis (DC); Philip Fountain (FL); Dave McKee (KS); Ron Henderson (LA); Robert Commodore (MN); Matt Barton (MO); Robert Perkins (MS); Jason McCartney (NE); Barbara Richardson (NH); Stew Stewart (NV); Jack Chaskey (NY); Jack Yanosky (PA); Matt Ray (TX); and Greg Elam (WV).

1. Discuss Electronic Issues

Ms. Narcini stated that the Attachment Warehouse was discussed during the regulator-only meeting that took place Oct. 25 at the Securities & Insurance Licensing Association (SILA) Conference in Phoenix. She stated that Ms. Vourvopoulos had made a suggestion to add a question on the NAIC Uniform Application that would ask applicants if they are using the attachment warehouse capabilities. Ms. Narcini stated that this would not be possible in the near future on the physical applications due to the recent adoption that took place at the Fall National Meeting in Washington, DC. Maryellen Waggoner (NIPR) advised that NIPR could set up a step that would ask this question prior to them commencing the electronic application process. Laurie Wolf (NIPR) said the specific language can be determined at a later date.

Mr. Yanosky made a motion for NIPR to pursue research and development of adding a question outside the NAIC Uniform Application on the electronic process for new and renewal applications that asks individuals whether they have or will be submitting information to the attachment warehouse. Mr. Commodore seconded the motion. There was no additional discussion, and the motion passed unanimously.

2. Discuss Limited Line Charge

Ms. Brunette stated that the goal of today's call is to adopt a definition for ancillary line. Ms. Brunette said the current proposed definition states that the limited lines ancillary insurance is a "specific types of insurance offered, solicited, or sold to the consumer under an individual, group, or group enrollment under a master policy as an add-on in connection with and incidental to non-insurance goods or services, including coverage for (i) pet, (ii) self-service storage, (iii) mobile communication, (iv) travel,<sup>1</sup> (v) car rental or any other similar coverages as designated by the insurance commissioner.1.) Drafting note: Jurisdictions not adopting an ancillary line definition may consider travel and car rental as separate named limited lines; however, for the purpose of licensing requirements and electronic licensing, these limited lines will be treated in the same way as the ancillary definition."

Ms. Brunette stated that travel and car rental insurance are regarded by the majority of states as an incidental line of insurance. She said the drafting note should assist those states those states that recently implemented the NAIC Uniformity Standards and adopted the core limited line and who stated they would have trouble going back to their legislature to modify or change travel or car rental under an ancillary line.

Ms. Brunette stated that it is important for the Working Group to recognize that once the licensing requirements have been determined, the uniform process will be established. The Working Group discussed different state procedures for limited lines. Several states provided examples of their process and what would need to take place for the new ancillary line to be adopted.

Mr. Perkins said the drafting note in the current draft states that the limited lines would be treated the same as the limited lines ancillary licensing requirements. Mr. Perkins asked what the licensing requirements would be for the ancillary line. Ms. Narcini said these requirements have not been created at this time. Mr. Perkins stated that before he could agree to a definition for ancillary line, the Working Group would need to verify the licensing requirements. Ms. Brunette said the Working Group found this approach problematic; when the Working Group potentially agrees on a definition and moves to the next level for determining the licensing requirements, there are discussions that bring the Working Group back to original drafting of the definition. She said the goal for today's call is to determine the definition so the licensing requirements can then be established. Mr. Perkins stated that he feels as though it would be hard to adopt a definition if the licensing requirements are not known.

Mr. Perkins further stated that he is concerned that if the current definition or any definition is adopted prior to the licensing requirements being established, there would be some states that may fall out compliance with uniformity standards because they treat travel and car rental differently than other ancillary lines. Ms. Brunette stated that there have been no decisions made at this time regarding licensing requirements; however, if a decision is made that would affect a state in this manner the Working Group would establish, a time frame for those states to comply that would allow them to remain uniform. Mr. Perkins stated that he does not agree with having entities become sole licensees for travel and car rental and therefore did not want those lines listed under the definition of ancillary limited line

Mr. Ray stated that he questions some of the language found in the definition, specifically “under an individual, group, or group enrollment under a master policy.” He stated that he would suggest changing the language to read “under an individual or group policy.” After discussion, the Working Group decided on the following new language: “specific types of insurance offered, solicited, or sold to the consumer under an individual policy or enrolled in a group or master policy as an add-on in connection with and incidental to non-insurance goods or services, including coverage for (i) pet, (ii) self-service storage, (iii) mobile communication; (iv) travel, (v) car rental, or any other similar coverages as designated by the insurance commissioner. Drafting note: Jurisdictions not adopting an ancillary line definition may consider travel and car rental as separate named limited lines; however, for the purpose of licensing requirements and electronic licensing, these limited lines will be treated in the same way as the ancillary definition.”

Mr. Perkins said he wanted to clarify whether the Working Group was defining the ancillary limited line as a license type or line of authority. Ms. Narcini confirmed that the Working Group would be defining the Ancillary Limited Line as a line of authority. The Working Group discussed how this addition would be treated in different states in relation to the language found in Section 7 of the *Producer Licensing Model Act* that addresses limited lines.

Ms. Narcini stated that the definition does not require states to create the new lines that they do not currently have for limited lines. She said the proposal would allow all jurisdictions that may be faced with new limited line products to put them under ancillary instead of creating new limited line, and this would create more uniformity in limited lines. The Working Group discussed how the ancillary lines and different lines of authority would be treated for each state.

Ms. Brunette asked if the Working Group was comfortable with the language discussed, or would everyone prefer to review the definition and come back on a conference call toward the end of the month.

Mr. Perkins said he proposes that travel and car rental be removed from the definition, and once the Working Group adopts the definition, as a next step they can discuss changing the licensing requirements for the travel and car rental line of authority.

Mr. Commodore made a motion that the new definition read: “specific types of insurance offered, solicited, or sold to the consumer under an individual policy or enrolled in a group or master policy as an add-on in connection with and incidental to non-insurance goods or services, including coverages as designated by the insurance commissioner.” Mr. Perkins seconded the motion.

John Fielding (Steptoe and Johnson) stated that he would strongly suggest the Working Group reconsider adding travel line back into the definition for ancillary line. Greg Mitchell (Frost Brown Todd) stated that he supported Mr. Fielding’s suggestion. Ms. Narcini stated that it appeared that there were significantly differing views regarding how ancillary be defined and asked the group how products like travel and car rental did not meet the definition of ancillary since they appeared to be incidental to the product that was primarily offered to the consumer.. She suggested that if the working group wished to move forward with not considering travel and car rental as ancillary type insurance products, they should be prepared to explain the rationale behind this view to the Commissioners in the event the definition is referred back to the working group by the Producer Licensing Task Force.

There was a roll call vote taken. California, District of Columbia, Minnesota, Mississippi, Pennsylvania and Texas voted yes. New Jersey, Alaska, Florida, Nebraska, New Hampshire, New York and Nevada voted no. Kansas, Louisiana, Missouri and West Virginia were not present for the vote. The motion did not pass.

Mr. Perkins stated that in order to move this forward, he would make a motion to add car rental and travel back into the definition. The motion would be for the definition to read: “specific types of insurance offered, solicited, or sold to the consumer under an individual policy or enrolled in a group or master policy as an add-on in connection with and incidental to non-insurance goods or services, including coverage for (i) pet, (ii) self-service storage, (iii) mobile communication; (iv)

travel, (v) car rental, or any other similar coverages as designated by the insurance commissioner. Drafting note: Jurisdictions not adopting an ancillary line definition may consider travel and car rental as separate named limited lines; however, for the purpose of licensing requirements and electronic licensing, these limited lines will be treated in the same way as the ancillary definition.”

Mr. Ray seconded the motion. A roll call vote was taken. Alaska, California, Florida, New Jersey, New Hampshire, Nevada, Pennsylvania and Texas voted yes. District of Columbia, Minnesota, Mississippi, Nebraska, New York and West Virginia voted no. Kansas, Louisiana and Missouri were not present for the vote. The motion passed.

Ms. Brunette stated that the next step will be to write a report to the Producer Licensing (EX) Task Force regarding the status of the charge. Ms. Narcini stated the report to the Task Force will identify some of the discussion to date and the obstacles the working group is facing and will provide some recommendations as well as request guidance on direction from the Task Force level. She stated that there will be no further activity among the Working Group regarding the limited line charge prior to the Winter National Meeting.

Having no further business, the Producer Licensing (EX) Working Group adjourned.

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