

PRODUCER LICENSING (EX) TASK FORCE

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Producer Licensing (EX) Task Force
Washington, DC
September 22, 2009

The Producer Licensing (EX) Task Force met in Washington, DC, Sept. 22, 2009. The following Task Force members participated: Linda S. Hall, Chair (AK); Sharon P. Clark, Vice Chair (KY); Steve Poizner represented by Keith Kuzmich (CA); 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 (OH); Kim Holland represented by Russell Valleroy (OK); Leslie A. Newman (TN); and Kent Michie represented by Mickey Braun (UT). Also participating was: Treva Wright-Donnell (KY).

1. Consider Adoption of Timeline for Reciprocity Certification

Director Hall said the Task Force adopted the *Report of the NARAB Working Group on Continuing Compliance with the Reciprocity Requirements of the Gramm-Leach-Bliley Act* at the Summer National Meeting. Director Hall said the Task Force is now being asked to consider the adoption of a proposed timeline for recertifying states as reciprocal to accompany the report. Commissioner Clark made a motion to adopt the timeline. Director Deal seconded the motion. There was no additional discussion, and the timeline was unanimously adopted (Attachment One).

Ms. Narcini reported that the Producer Licensing Working Group adopted the Guidelines for Online Continuing Education Courses during its Aug. 27 conference call and adopted the Continuing Education Reciprocity Form Revisions and the Uniform Criminal History and Regulatory Actions Background Review Guidelines during its Sept. 10 call. Ms. Narcini made a motion to adopt the guidelines. Director Hudson seconded the motion. There was no additional discussion, and the documents were unanimously adopted (Attachment Two, Three and Four).

2. Consider Adoption of 2010 Charges

Director Hall presented the Task Force with its proposed 2010 charges. Ms. Narcini said the charge regarding the development of uniform guidelines for background check reviews should be deleted. She said the Producer Licensing Working Group has completed this charge. Mr. Braun made a motion to adopt the charges, with the suggested modification from Ms. Narcini. Ms. Narcini seconded the motion. There was no additional discussion, and the following charges were unanimously adopted.

The mission of the Producer Licensing (EX) Task Force is to (1) develop and implement uniform standards, interpretations and treatment of producer and adjuster licensees and licensing terminology; (2) monitor and respond to developments related to licensing reciprocity; (3) coordinate with industry and consumer groups regarding priorities for licensing reforms; and (4) coordinate and consult with the National Insurance Producer Registry (NIPR) Board of Directors to develop and implement uniform producer licensing initiatives, with a primary emphasis on encouraging the use of electronic technology.

1. Monitor progress on recommendations to NIPR, which include the following: (1) work closely with the NAIC Market Regulation Division and the Producer Licensing Working Group to identify areas in the states' electronic business rules that do not appear to comply with reciprocity or uniformity standards; (2) develop a uniform set of electronic processing standards (business rules) to facilitate "true" uniformity vs. "virtual" uniformity; (3) create a central location for the submission of company contact information (i.e., appointments/contacts database); (4) coordinate and/or track multi-state insurance examinations; (5) create a central location for the submission of national criminal background-check status information; and (6) create a central location for the submission of continuing-education and pre-licensing course information.—*Essential*
2. In conjunction with the Producer Licensing Coalition, work closely with the NIPR to encourage full utilization by all states and producers of NIPR products and services, including individual and business entity resident and nonresident licensing, address change requests, Attachments Warehouse and reporting of administrative actions.—*Essential*
3. Finalize the evaluation of the key findings and issues regarding disparate business entity licensing laws, regulations and practices identified in the state producer licensing assessments by comparing the administrative burdens with the consumer protections arising from the licensing of business entities, and provide policymaking recommendations for simplifying and standardizing the business entity licensing process, considering all options ranging from elimination of

the licensing of business entities to elimination of components of the process, such as licensing by line of authority or by each branch location.—*Essential*

4. Finalize a strategy plan to implement fingerprinting in all states and the suggested deadline for implementation, and identify what additional resources from state insurance regulators, the industry and consumer groups could be committed to this effort.—*Essential*
5. Facilitate quarterly roundtable discussions with the state producer licensing directors for the exchange of views, opinions and ideas on producer-licensing activities in the states and at the NAIC.—*Essential*
6. Appoint the NARAB Working Group to complete state reciprocity re-certification based on the Working Group's 2009 reciprocity report and adopt a final report for re-certification of the states' compliance with the reciprocity mandates of the Gramm-Leach-Bliley Act.—*Essential*
7. Appoint the Producer Licensing Working Group to:
 - Review the process for examination development and develop uniform standards for the delivery of examinations, updating of examinations and passage rate for examinations.—*Essential*
 - Finalize the review of 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.—*Essential*
 - Continue to provide oversight and ongoing updates, as needed, to the *State Licensing Handbook*.—*Essential*
 - In response to inquiries about the states' adoption and interpretation of the Producer Licensing Model Act (#205) and uniform licensing standards (ULS), provide updates to the frequently asked questions document regarding the model act and guidance on practices to implement all of the ULS.—*Important*
 - Provide ongoing maintenance and review of reciprocity guidelines and uniform application forms for continuing-education providers and state review and approval of courses.—*Important*
 - Provide input and feedback to NAIC/NIPR staff regarding the development of electronic-licensing applications, such as a centralized filing point for notification of administrative/criminal actions and Personalized Information Capture System (PICS) alerts for state insurance regulators.—*Essential*
 - Serve as an informal focus group with NAIC staff for the development and delivery of a *State Licensing Handbook* training class for state insurance departments.—*Essential*
8. Receive updates from the NAIC/Industry Producer Licensing Coalition on its work to:
 - Continue to serve as the forum for the NAIC membership and industry to exchange views, opinions and ideas on producer-licensing priorities, such as professional standards of producers, state licensing laws, state administrative procedures and federal legislation.—*Essential*
 - Continue discussions on ways to further improve processes the industry believes are administratively burdensome to producers, including the appointment process, the examination/testing process and ways to encourage state and local industry organizations to actively support full adoption of the major lines of authority and elimination of non-core limited lines of authority.—*Essential*
 - Continue to track state legislative initiatives to implement uniform and reciprocal licensing standards and coordinate regulator and industry support for such initiatives.—*Essential*
3. Discuss Business Entity Licensing Process

Director Hall highlighted the following four issues for discussion: (1) the elimination of licensing business entities by line of authority and the coinciding elimination of the designated responsible producer to hold the same line of authority as the business entity; (2) the elimination of licensing and registering business entities by branch location; (3) the elimination of the requirement for business entities to file organizational documents; and (4) the elimination of business entities to obtain prior approval of assumed names.

Ms. Wright-Donnell said Kentucky is moving away from the appointment of business entities and toward the requirement that all individual producers be appointed. Ms. Narcini said the appointment of a business entity should be left to the option of the business entity. Ms. Narcini said appointments become a problem when a state requires both the appointment of business entities and individuals. Mr. Braun said appointment allows for the payment of commissions to business entities. Larry Kibbee (Liberty Mutual) said the payment of commissions does flow to the entity or individual who has been appointed. Mr. Kibbee said this is an important issue for Liberty Mutual.

Mr. Henderson said it will be very difficult to eliminate the licensing of business entities, and an appropriate place to start with simplifying the business entity licensing process is with appointments. Director Hall suggested a priority list for the simplification of business entity licensing be completed. Ms. Narcini said the focus should be on why states have certain requirements and what requirements might be eliminated, such as the licensing of business entities by lines of authority.

4. Receive Update on Producer Licensing Coalition

Commissioner Newman said the Coalition received a report from Maryellen Waggoner (NIPR Executive Director) providing statistics regarding electronic processing of state licensing transactions through NIPR. The statistics demonstrate tremendous progress on most all NIPR processes. Commissioner Newman said the Coalition received a report from NIPR and NAIC staff regarding state electronic processing business rules and key differences in state licensing and processing requirements among the states. The Coalition received a summary report of state compliance with NAIC uniform resident licensing standards. Commissioner Newman said the Coalition received an update from the NAIC Legal Division on 2009 state legislative activity. In summary, there were 31 bills in 24 states, with 17 bills enacted, 11 of which take effect in 2009 and six that take effect in 2010. There are still eight bills pending and six bills that failed in 2009. Regarding subject matter, seven bills relate to fingerprinting, 13 relate to continuing education, and nine relate to major and/or limited lines of authority. Commissioner Newman said the Coalition discussed the need to begin a Fall 2009 outreach effort to the states, in order to stay in front of state legislative deadlines for 2010. NAIC staff will pull together a schedule and logistics for these outreach calls, and are seeking volunteers from both the commissioner and producer trade representative ranks to prepare for and lead these calls with each state in October and November. Commissioner Newman said the Coalition received an update on the Producer Licensing Working Group's work on "ancillary lines of authority," the purpose of which is to maintain and enforce the core limited lines per NAIC uniformity standards, but also categorize other-than-core limited lines for purposes of streamlining electronic processing.

5. Receive Update on NIPR Activities

Director Hall reminded states of the need to issue the NAIC-approved model bulletin regarding the use of the Attachments Warehouse, which provides producers with the ability to report administrative, civil or criminal actions, and provide supporting documents for affirmative answers to background questions on the uniform licensing applications.

6. Consider Adoption of Working Group Reports

Director Hall reported that the NARAB Working Group would be working with NAIC Legal staff to initiate the process to re-certify states now that the timeline has been adopted. Commissioner Newman made a motion to adopt the report. Mr. Henderson seconded the motion. There was no additional discussion, and the report was unanimously adopted (Attachment Five).

Ms. Narcini said the Working Group received an update from the Federal Emergency Management Agency on their advance flood insurance training program; adopted the Uniform Criminal History and Regulatory Actions Background Review Guidelines; and discussed the concept of the ancillary line definition. Ms. Narcini made a motion to adopt the report of the Working Group. Director Hudson seconded the motion. There was no additional discussion, and the report was unanimously adopted (Attachment Six).

7. Discuss Date for Producer Licensing Roundtable Discussion

Director Hall reported that Ms. Narcini would be chairing the next roundtable discussion, which would be scheduled in approximately two weeks.

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

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***DRAFT TIMELINE FOR RECIPROCITY CERTIFICATION BASED ON
2009 RECIPROCITY REPORT
Approved by NARAB (EX) Working Group, August 6, 2009***

Objective: The NARAB (EX) Working Group was reconstituted in March 2008 to make recommendations on possible revisions or additions to the 2002 NARAB Reciprocity Standard. The Working Group has adopted recommendations that certain issues violate the Gramm-Leach-Bliley Act (GLBA) reciprocity requirements and is expected to adopt an updated reciprocity framework report during the 2009 Summer National Meeting, which would be formally considered by the Joint Executive/Plenary at the Fall National Meeting. Below are proposed steps with suggested timelines for the Working Group to undertake a reciprocity certification process based on its 2009 report.

Recommendations: The NAIC Legal Division recommends that the NARAB (EX) Working Group also recommend to the Joint Executive/Plenary that it adopt an effective date for when the 2009 report will be effective for purposes of a state having to satisfy these additional requirements. It is also recommended that the Working Group, as well as the Executive Committee, reserve the right to modify these steps and timelines for a requirement(s) that may necessitate a legislative change in several states such that consideration is given to accommodating states' legislative cycles.

Suggested Steps and Timeline:

First, the NARAB Working Group will provide notice to all Commissioners of its GLBA Reciprocity Recommendations within ten (10) days after the adoption of all its recommendations.

Second, the Joint Executive/Plenary will consider for adoption the NARAB Working Group GLBA Reciprocity Recommendations. These recommendations are expected to be considered for adoption at the Fall National Meeting.

Third, the NARAB Working Group will adopt a new Reciprocity Checklist for purposes of certification by states that their respective laws and regulations meet the updated reciprocity requirements. The Working Group may be in position to do so at the Fall National Meeting.

Fourth, the new Reciprocity Checklist will be distributed to all states by October 15, 2009 and states will be asked to submit completed checklists to the NAIC Legal Division as soon as possible but no later than July 1, 2010, or such other date as specified by the Executive/Plenary, for purposes of certifying its laws, regulations and practices, either effective or enacted as of July 1, 2010, satisfy the reciprocity framework within the 2009 report. States may amend their checklists after July 1, 2010 to reflect any legislative or regulatory changes, if necessary. States may be granted a one-year extension until July 1, 2011 if legislative action is required and its legislature does not meet in 2010.

***DRAFT TIMELINE FOR RECIPROCITY CERTIFICATION BASED ON
2009 RECIPROCITY REPORT
Approved by NARAB (EX) Working Group, August 6, 2009***

Fifth, as received, each state's reciprocity checklist will be posted to the NAIC Web site to provide interested parties with a 30-day period to provide written comments.

Sixth, the NAIC Legal Division will review each state's Reciprocity Checklist, Addenda, and comments as well as recently-passed legislation as part of its review and will correspond with states to clarify any questions arising from review of the materials.

Seventh, the NAIC Legal Division will provide to the NAIC Executive Committee a Memorandum in similar form to the June 10, 2002 memorandum to the 2002 NARAB (EX) Working Group on the Certification of States as Complying with Requirements of Producer Licensing Reciprocity.

Eighth, the NAIC Executive Committee, or its designated working group, will issue a Report on the Certification of States for Producer Licensing Reciprocity based on the 2009 NARAB Working Group reciprocity report with the goal of such report being adopted by the August 2010 National Meeting.

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Guidance for Online CE Courses

DATE: September 1, 2009

TO: Anne Marie Narcini, Chair of the Producer Licensing Working (EX) Group

FROM: Leroy Brungardt

RE: Guidance for Online CE Courses

These guidelines are being proposed to create some validity and credibility to administering the on-line courses.

The recommendations are as follows:

- **Require each agent to enroll for the course before having access to course material.**
- **Prevent access to the course exam before review of the course materials.**
- **Prevent downloading of any course exam.**
- **Provide review questions at the end of each unit/chapter and prevent access to the final exam until each set of questions are answered at a 70% rate.**
- **Provide final exam questions that do not duplicate unit/chapter questions.**
- **Prevent alternately accessing course materials and course exams. This does not apply if the state allows for “open book” exams.**
- **Have monitor affidavit containing specific monitor duties and responsibilities printed for monitor’s use to direct the taking of the final exam. Monitor will complete the affidavit after the exam is completed. (This only for states that require a monitored exam).**



UNIFORM CONTINUING EDUCATION RECIPROCIITY COURSE FILING FORM

Please clearly print or type information on this form. Thank you for helping us promptly process your application.

Provider Information

Provider Name		FEIN # (if applicable)			
Contact Person		E-mail Address of Contact Person			
Phone Number () - ext.	Fax Number () -	Home State	Home State Provider #	Reciprocal State	Reciprocal State Provider #
Mailing Address		City	State	Zip	

Course Information

Course Title		
Date of Course Offering (if applicable)		
Method of Instruction		National Course
Self – Study (non-contact) <input type="checkbox"/> Correspondence <input type="checkbox"/> On-Line Training (Self-Study) <input type="checkbox"/> Video/Audio/CD/DVD Word Count _____ Difficulty (Circle) Basic Intermediate Advanced	Classroom (contact) <input type="checkbox"/> Seminar/Workshop <input type="checkbox"/> Webinar <input type="checkbox"/> Teleconference <input type="checkbox"/> Other _____	National Insurance Designation? <input type="checkbox"/> Yes <input type="checkbox"/> No Designation Type: _____ Is this Course Open to the Public? <input type="checkbox"/> Yes <input type="checkbox"/> No
Examination Required? <input type="checkbox"/> Yes <input type="checkbox"/> No		

Credit Hours Requested and Course/Hours Decision

Course Concentration	Hrs Requested by Provider		Hrs Approved by Home State		Hrs Approved by Reciprocal State	
	Sales/Mktg	Insurance	Sales/Mktg	Insurance	Sales /Mktg	Insurance
A. Insurance Topics: (Circle Appropriate Course Concentration)						
Life / Health						
Property / Casualty/Personal Lines						
Ethics						
General (Applies to all lines)						
Insurance Laws						
Other (LTC, NFIP, Viatical, Annuities, _____)						
Total Hours						
B. Adjuster Topics (Total Hours)						

Information Below is for Regulator Use Only

Approval Date		
Course Number assigned		
Course approval expiration date		
Signature of Home State Regulator/Representative OR ATTACH Provider Home State Approval Form		
Signature of Reciprocal State Regulator/Representative OR ATTACH Reciprocal State Approval Form		

See State Matrix for Instruction Sheet and State Specific Fee Schedule

INSTRUCTION SHEET

NOTE: This course may NOT be advertised or offered as approved in the state to which application has been made until approval has been received from the Insurance Department.

1. If you are a PROVIDER filing for approval from the Home State:

1.1 Complete all the fields in the “Provider Information” section except “Reciprocal State” and the adjacent “Provider #” fields.

1.2 Complete the Course Information Section.

1.3 In the “Credit Hours Requested and Course/Hours Decision” section, complete the “Hrs. Requested by Provider” columns, detailing in the respective columns the number of hours for sales – and marketing-related instruction and the number of hours for other insurance-related instruction. Please note the following:

1.3.1 When using this application, which is governed by the NAIC CE Reciprocity Agreement in conjunction with ‘states’ laws, only whole numbers of credit hours will be approved – partial hours will be eliminated.

1.3.2 States that approve sales/marketing topics will consider the hours in the “sales/Mktg” column and the hours in the “Insurance” column when deciding the number of hours to approve. States that do not permit sales/marketing topics as part of continuing education credit hours will only consider the hours shown in the “Insurance” column when making their credit-hour approval decisions.

1.3.3 Contact the individual state to determine whether there are any specific requirements for submitting insurance adjuster courses.

1.4 Submit the application form along with required course materials, a detailed course outline, instructor information, if required, and the required course application fee. Refer to website below for instructor information

(www.naic.org/documents/urtt_cer_CE_Matrix.xls).

2. If you are a PROVIDER filing for approval from a Reciprocal State:

2.1 Make a sufficient number of photocopies of the Home State approval form to enable you to submit a copy of this application to each of the Reciprocal States where you are seeking credit.

2.2 On each application, write the Reciprocal State and the provider number assigned to you by that state in the “Reciprocal State” and adjacent “Provider #” fields.

2.3 Send the CER application, home state approval, if home state issues one, a detailed course outline, and the required fee to the reciprocal state. If this is a National Course *, the Providers will be allowed to submit an agenda which must include date, time, each topic and event location in lieu of a detailed course outline.

2.4 Subsequent national course offerings should only be reported for events that are conducted in the “home” state.

* **National Course** is defined as an approved program of instruction in insurance related topics, offered by an approved provider, and leads to a national professional designation or is a course offered to individuals who must update their designation once it is earned.

3. If you are a HOME STATE or the designated Representative of the Home State:

3.1 After reviewing the course materials, complete the “Hrs Approved by Home State” column.

3.2 Enter the date of approval, course # assigned, course approval expiration date. Sign the CER Form OR attach the home state approval form.

3.3 If the class is not approved, note it on the bottom of the CER Form.

4. If you are the RECIPROCAL STATE or designated representative of the Reciprocal State:

4.1 After reviewing “Hrs approved by Home State” complete the “Hrs Approved by Reciprocal State”.

4.2 Enter the date of approval, course number assigned, course approval expiration date. Sign the CER Form OR attach the reciprocal state approval form.

4.3 If the class is not approved, note it on the bottom of the CER Form.

UNIFORM CRIMINAL HISTORY & REGULATORY ACTIONS BACKGROUND REVIEW GUIDELINES

As part of the 2009 charges for the Producer Licensing Working Group (PLWG), the Producer Licensing Task Force asked the working group to develop uniform guidelines for background check reviews of producers. As Uniform Licensing Standards, including fingerprinting requirements, are adopted in all jurisdictions, the ultimate goal is for each jurisdiction to defer to the resident state for licensing determinations wherever possible. For all jurisdictions to have a comfort level with these licensing determinations, a uniform process of review appears warranted. The Working Group believes that if all jurisdictions implement these guidelines, in most situations, nonresident states will be able to defer to the resident state's licensing decision.

Generally, there are four situations when a review of criminal history or regulatory actions could come into consideration in the licensing process:

1. At the time of initial application the applicant is asked background questions, NAIC databases are checked for regulatory actions and the resident state, if it has adopted the Uniform Licensing Standards, will fingerprint to conduct a state and national criminal background check.
2. During the licensing term the producer must notify the Department of any administrative action taken against the producer in any other jurisdiction or any criminal prosecution in any jurisdiction within 30 days of the initial pretrial hearing in accordance with Section 17 of the Producer Licensing Model Act (PLMA).
3. During the licensing term some states that require fingerprinting will receive subsequent arrest and conviction notifications from the State Department of Justice or FBI on their licensee.
4. At the time of continuation or renewal of the license, the licensee is asked updated background questions and NAIC databases are checked for regulatory actions that may have occurred since the last renewal.

Although each situation may have slightly different procedures and considerations, overall the process itself should be consistent to assure fair and uniform handling of each licensee or applicant and to allow for a uniform process regardless of jurisdiction. These guidelines will address a general uniform process for consideration of criminal background and regulatory actions that can be applicable to each of these circumstances.

For illustration and discussion purposes, reference will be made in this document to producer applications and licensing decisions; however the Working Group believes that in most situations, the scope of the license does not impact the jurisdiction's license determination (issue, deny, place on probation, etc.). Therefore we recommend these guidelines for other license types such as adjusters, surplus lines agents, title agents and bail bondsmen.

Criminal History Background Review

The producer Uniform Licensing Standards (ULS) require the following background review for new applicants:¹

Standard 14. Background Checks: (Standard 14C for resident only)

Background checks will be conducted through the following three steps:

- A. States will ask and review the answers to the standard background questions contained on the Uniform Applications;
- B. States will run a check against the NAIC RIRS/SPLD and SAD; and
- C(1). States will fingerprint their resident producer applicants and conduct state and federal criminal background checks on new resident producer applicants; or
- C(2) If a state lacks the authority or resources to accept and receive data from the FBI, it shall conduct a statewide criminal history background check through the appropriate governmental agency for new resident producer applicants until such time as it obtains the appropriate authority.

In order to be fully compliant with standard 14, a state must fingerprint and conduct state and federal criminal history background checks on their new resident applicants. Although electronic fingerprinting is strongly encouraged, a state will be compliant with this requirement if the fingerprints are obtained through paper when electronic means are unavailable.

A state may, but is not required to fingerprint resident producers not previously fingerprinted at the time of application or when adding additional lines of authority to their license. States shall not fingerprint nonresident applicants.

At the time of initial application, the applicant is asked the following question:

Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?

“Crime” includes a misdemeanor, felony or a military offense. You may exclude misdemeanor traffic citations or convictions involving driving under the influence (DUI) or driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license and juvenile offenses. “Convicted” includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere, or having been given probation, a suspended sentence or a fine.

The applicant is also asked if the crime is a felony, has he or she applied for a written consent when required by 18 USC 1033 and if so, was the written consent granted. A similar question is

¹ Note Standard 14A and B apply to both resident and nonresident applicants while 14C is for resident applicants only

asked on the Uniform renewal application; however the applicant need only answer based on any changes since the last renewal.²

Applicants who respond affirmatively to this question are required to provide a copy of the charging document(s), the official document(s) which demonstrates the resolution of the charge(s) or any final judgment and a written statement explaining the circumstances of each incident. If the applicant answers yes to the sub-question regarding any felony convictions requiring a written consent as required by 18 USC 1033, a copy of the written consent is requested. The working group recommends that each jurisdiction require such information prior to making a decision regarding licensure.

Upon receipt of this documentation, the Department should consider the nature of the crime committed and the circumstances surrounding the crime. This information should be compared to the duties requisite to holding an insurance license and any regulatory requirements or responsibilities that apply to a licensee such as a fiduciary duty. Although this list is not exhaustive, the following types of crimes may have impact on fitness for licensure and warrant further review:

A conviction which evidences present or potential unfitness to perform the functions authorized under the license in a manner consistent with the public health, safety and welfare including, but not limited to:

1. Crimes involving dishonesty or fraud
2. Convictions involving conduct related to the applicant's business conduct or profession
3. Crimes involving theft, burglary or robbery
4. Crimes involving breach of trust or breach of fiduciary duties
5. Violent crimes including, but not limited to murder, attempted murder, assault, rape and other sexual crimes that impact public safety
6. Multiple convictions that demonstrate a repeated disregard for the law

Department staff should review Appendix F the NAIC's Antifraud (D) Task Force's *Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994: 18 United States Code Sections 1033 and 1034* for examples of the types of criminal felonies that involve dishonesty or breach of trust.

The Department should also review and consider the applicant's statement and evidence of rehabilitation. Information to consider includes, but is not limited to:

1. The nature and severity of the crime(s).
2. The total criminal record of the applicant – is this a single conviction or a pattern of convictions?
3. The age of the applicant at the time of the crime.

² The current draft of changes to the uniform application awaiting adoption by Executive/Plenary includes language that requires disclosure only if the Department has not been previously advised

4. The length of time that has passed since the incident(s).
5. Whether the applicant has fulfilled the terms of parole or probation.
6. Whether the applicant has satisfied any requirement to make restitution.
7. Whether the crime adversely impacted other person(s).
8. Whether the applicant has been involved with or completed any program to address the underlying circumstances that may have played a part in conduct that lead to committing the crime (such as rehabilitation, counseling or community involvement to address social problems).
9. Character references
10. Whether the applicant was given a certificate of good conduct or a pardon to the offense(s) and the timing of such award (for example, part of a plea bargain or after successful completion of the sentencing requirements).

Once the information and documentation has been reviewed, the Department has several choices. While different jurisdictions have laws that permit slightly different practices, some options include: Issue the license, deny the application, issue a probationary license or in situations where a license is already in place, suspend, revoke or refuse to renew the license. Section 12 of the Producer Licensing Model Act provides guidance for reasons to take action on the application or license. The primary goal of the review and determination is to assess whether the applicant/licensee is sufficiently rehabilitated such that he is fit to hold the type of license to be issued. If the determination is that evidence does not exist to show rehabilitation and the issuing the license could impact public health, safety or welfare, the application will be denied or the license revoked. In a situation where the documentation demonstrates that either the nature of the crime would not impact the fitness for licensure or that the applicant is sufficiently rehabilitated to hold a license, the Department will issue the license. If there may be a question of fitness for all aspects of the license, the Department may consider a probationary license where the applicant must work under certain constraints for a period of time (e.g. limited scope of duties; periodic reports to the Department; working under the oversight of another licensee). The Department may also consider issuance of a restricted license in which the licensee must abide by all laws or their license may be summarily suspended or revoked.

In some situations, such as where the nature of the crime would not normally affect the ability to obtain a license, however the applicant failed to disclose the conviction, the Department may issue the license only after payment of a monetary penalty and all the conditions thereto.

If the license is denied or issued with restrictions, notice should be provided in writing to the applicant or licensee and the jurisdiction's appeal rights and procedures, if applicable, should be contained within the notice. In some jurisdictions, the Department must afford a right to a hearing to the applicant. A statement of issues or accusation is issued in conjunction with the right to a hearing. Once action is finalized, if the license is denied or limited or if the applicant is fined, the Department should post the action on the NAIC's Regulatory Information Retrieval System (RIRS).

Criminal Background and the 1033 Written Consent Process

18 U.S.C. Sec. 1033 makes it a felony crime for a person convicted of a felony involving dishonesty or breach of trust or an offense under 18 U.S.C. § 1033 to engage in the business of insurance without having first obtained the written consent of the Commissioner or his or her designee. The NAIC's Antifraud (D) Task Force has published a document entitled *Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994: 18 United States Code Sections 1033 and 1034* (also known as the "1033 Guidelines") that jurisdictions should refer to for standard procedures regarding 1033 written consent. This document also encourages all jurisdictions to defer to the resident state for the 1033 written consent and, once issued, to honor the written consent in all other nonresident jurisdictions.

Regulatory Actions

At the time of initial application for a producer license, question 2 asks:

2. Have you or any business in which you are or were an owner, partner, officer or director, or member or manager of limited liability company, ever been involved in an administrative proceeding regarding any professional or occupational license, or registration?

"Involved" means having a license censured, suspended, revoked, canceled, terminated; or, being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation or surrendering a license to resolve an administrative action. "Involved" also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license. "Involved" also means having a license application denied or the act of withdrawing an application to avoid a denial. You may EXCLUDE terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee.³

The uniform producer renewal application asks the licensee to provide updated information on regulatory actions that may have occurred since the last renewal. If the applicant's response is affirmative, a written statement identifying the type of license and explaining the circumstances must be provided, as well as copies of the documents that state the charge(s) and document the resolution.

When the jurisdiction reviews an applicant or licensee's history of regulatory actions, it should consider the history in a manner similar to its treatment of criminal history. Items to consider include but are not limited to :

1. What was the nature of the regulatory action?
2. Does the violation evidence present or potential unfitness to perform the functions authorized under the license in a manner consistent with the public health, safety and welfare?
3. What license type was subject to the regulatory action and does the conduct directly relate to activities for which the applicant or licensee would engage in while selling, soliciting or negotiating insurance?

³The current draft of changes to the uniform application awaiting adoption by Executive/Plenary clarifies the language to state "Have you ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration?"

4. What is the total regulatory record of the applicant – is this a single incident or a pattern of violations? Patterns of violations should not include regulatory action in multiple states as a result of an isolated action in a single state (such as the domino effect of failure to report a regulatory action within 30 days)
5. The age of the applicant at the time of the administrative action.
6. The length of time that has passed since the incident(s).
7. Whether the action resulted in probation, suspension or revocation of the license and if applicant has fulfilled the terms of any license suspension or probation.
8. Whether the applicant has satisfied any requirement to make restitution or other terms of the consent agreement or order from the regulatory agency.
9. Whether the regulatory violation adversely impacted other person(s).
10. Whether the regulatory action involved fraud, dishonesty, breach of trust or fiduciary duty or misappropriation of premiums or other funds held on behalf of others.
11. Whether the resident state took action against the applicant/licensee.

Like affirmative responses to criminal background questions, once the information and documentation has been reviewed, the Department has several choices. While different jurisdictions have laws that permit slightly different practices, some options include: issue the license, deny the application, issue a probationary license or in situations where a license is already in place, suspend, revoke or refuse to renew the license. Section 12 of the Producer Licensing Model Act provides guidance for reasons to take action on the application or license. The primary goal of the review and determination is to assess whether the applicant/licensee is fit to hold the type of license to be issued. If the determination is that evidence does not exist to show rehabilitation and the issuing the license could impact public health, safety or welfare, the application will be denied or the license revoked. In a situation where the documentation demonstrates that either the nature of the regulatory action would not impact the fitness for licensure or that the applicant is sufficiently rehabilitated to hold a license, the Department will issue the license. If there may be a question of fitness for all aspects of the license, the Department may consider a probationary license where the applicant must work under certain constraints for a period of time (e.g. limited scope of duties; periodic reports to the Department; working under the oversight of another licensee). The Department may also consider issuance of a restricted license in which the licensee must abide by all laws or their license may be summarily suspended or revoked.

In some situations, such as where the nature of the regulatory action would not normally affect the ability to obtain a license, however the applicant failed to disclose the action, the Department may issue the license only after payment of a monetary penalty.

If the license is denied or issued with restrictions, notice should be provided in writing to the applicant or licensee and the jurisdiction's appeal rights and procedures, if applicable, should be contained within the notice. In some jurisdictions, the Department must afford a right to a hearing to the applicant. A statement of issues or accusation is issued in conjunction with the right to a hearing. Once action is finalized, if the license is denied or limited or if the applicant is

fined, the Department should post the action on the NAIC's Regulatory Information Retrieval System (RIRS).

Deference to the Resident State

As stated previously, the ultimate goal of all jurisdictions conducting a uniform background check including asking the questions on the NAIC Uniform application; reviewing RIRS and SAD data and resident states fingerprinting resident applicants and conducting state and federal criminal history background checks is to provide a process whereby the nonresident jurisdictions can defer to the resident states for licensing determinations whenever possible. If a nonresident state becomes aware of a criminal or regulatory action against the applicant or licensee that may affect fitness for licensure, it is recommended that, if its laws permit, contact should be made with the resident state to confirm that the state was aware of the background at the time the decision was made to issue the license. If the answer is yes, every attempt should be made to defer to the resident state's determination.

It should be noted that there may be situations in which a nonresident state may decline an initial application despite the applicant having a license in the home state. An example would be, in situations where the crime or regulatory offense occurred after the home state license is issued, it may, depending on the jurisdiction, be more difficult to deny a renewal or revoke the license than it is to deny an initial license. There may also be situations where the resident state was not made aware of certain details that could affect the licensing determination. In such situations it is possible that the nonresident state may deny the initial application while the resident state initiates appropriate administrative action to revoke the existing license.

In order to effectively render timely and reasonable licensing determinations in a uniform manner while still providing appropriate consumer protections, all regulatory jurisdictions are encouraged to communicate with each other and when warranted, explain the rationale behind licensing determinations. In situations where adverse licensing determinations are rendered, the regulator should post the information on RIRS or SAD as appropriate, so other jurisdictions are notified and can take appropriate regulatory action.

Draft: 8/26/09

NARAB (EX) Working Group
Conference call
August 6, 2009

The NARAB (EX) Working Group of the Producer Licensing (EX) Task Force met by conference call Aug. 6, 2009. The following Working Group members participated: Linda S. Hall, Chair (AK); Roger A. Sevigny, Vice Chair, represented by Barbara Richardson (NH); Thomas Sullivan represented by Mark Franklin (CT); William W. Deal (ID); Michael T. McRaith represented by Kelly Kruger (IL); Susan E. Voss (IA); Kim Holland represented by Russell Valleroy (OK); and Leslie A. Newman (TN).

1. Consider Adoption of Timeline for Reciprocity Re-certification

Director Hall referred Working Group members to the proposed timeline for reciprocity re-certification. She noted the document was identical to one circulated at the Working Group's meeting during the Summer National Meeting. Director Hall stated the outline would provide the Executive (EX) Committee and Plenary with a plan for re-certifying states as reciprocal based on the updated standard included within the reciprocity report adopted by the Working Group.

Director Hall highlighted the key features of the timeline, noting that it presumes the Working Group will 1) utilize a checklist, similar to the reciprocity certification process in 2002; 2) allow states a period of time to complete the checklists and pursue any necessary legislative, administrative or procedural changes; 3) post the checklists to the NAIC Web site, allowing for interested party comment; 4) review the checklists, with assistance from the NAIC Legal Division; and 5) issue a report in 2010 on those states that are compliant with the updated reciprocity standard.

Director Hall proposed changing the timeline to delete the final sentence of the "Second" paragraph, noting that the "Fourth" paragraph proposed an effective date for completing the reciprocity re-certification process. Commissioner Voss agreed with this change. Wesley Bissett (Independent Insurance Agents and Brokers of America—IIABA) suggested that the Working Group consider a more expeditious completion date than July 1, 2010. Following discussion about the process for submitting and reviewing checklists, Director Hall suggested that the "Fourth" paragraph be amended to encourage states to submit their checklists "as soon as possible, but no later than July 1, 2010."

Director Deal moved to delete the final sentence of the "Second" paragraph and to amend the first sentence of the "Fourth" paragraph to encourage states to submit their checklists "as soon as possible, but no later than July 1, 2010." Commissioner Newman seconded the motion. The motion passed.

2. Discuss Proposed Checklist for States to Complete

Director Hall directed the Working Group to a draft proposed reciprocity checklist (Attachment Five-A), noting the document is a mark-up of the original reciprocity checklist utilized by the previous NARAB Working Group in 2002. The mark-ups show proposed changes based on certain issues considered recently by this NARAB Working Group. The mark-ups specifically address business entity licensing reciprocity, whether states require variable life applicants to obtain a life license, whether states require surplus lines applicants to obtain an underlying property/casualty license, and whether states impose any other limiting or discriminatory requirements on non-resident licensees. Director Hall stated that formal adoption is not required by the Working Group, but the checklist is intended to serve as the Working Group's tool for considering whether to re-certify states as reciprocal.

Ms. Richardson stated she submitted previously suggested changes to the proposed checklist. Commissioner Newman asked whether Question F was too open-ended. John Bauer (NAIC) responded that Question F was a modified version of a question asked through an addendum to the 2002 checklist. Steve Stephan (National Association Professional Surplus Lines Offices—NAPSLO) suggested that the surplus lines-related question might be more focused on the question of the person performing the diligent search. Mr. Stephan offered to submit proposed changes. Mr. Bissett suggested that changes be made to address where non-residents are required to submit additional documents, as well as differences in fees between residents and non-residents; amend "applicants" to "applicants and producers" on Page 3; and delete references to "under the laws of your state." Mr. Bissett also offered to submit comments.

3. Discuss Outreach with Non-reciprocal States

Director Hall noted that one of the Working Group's 2009 charges is to conduct outreach with the four remaining non-reciprocal jurisdictions (California, Florida, New York and Washington) to identify specific barriers for implementing reciprocity and consider solutions and resources that might be available to address these barriers. Commissioner Newman asked whether the approach would depend on the issues affecting each state. Director Hall responded that each jurisdiction's specific issues and barriers need to be considered. Commissioner Voss offered to contact Florida and New York, and Director Hall offered to contact California and Washington. Director Hall requested that Mr. Bauer compile a list of known barriers to reciprocity for each non-reciprocal jurisdiction.

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

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~~9-24-04~~ DRAFT – July 30, 2009

TO BE COMPLETED BY STATE INSURANCE DEPARTMENTS

NARAB (EX) WORKING GROUP RECIPROCITY CHECKLIST

A. 1. Under the laws of _____, and assuming licensure is not denied for cause pursuant to state law, are there any requirements imposed upon a non-resident producer seeking licensure in your state license other than:

1. The person must be currently licensed as a resident and in good standing in his or her home state;
2. The person has submitted the proper request for licensure and has paid the required fees;
3. The person has submitted or transmitted to this insurance commissioner the application for licensure that the person submitted to his or her home state, or in lieu of the same, a completed Uniform Application; and
4. The person's home state awards non-resident producer licenses to residents of your state on the same basis?

No, these are the only requirements _____ or

Yes, this Department imposes additional requirement(s) _____

Note: An additional requirement does not include the Department conducting background checks on non-resident producer applicants.

If you answered "yes" to the above question please explain the additional requirement(s) and provide the authority in your statutes or regulations for imposing such requirement(s). (Please use separate page(s) if necessary.)

2. Does your state's answer to A.1 also apply to business entities seeking non-resident licensure?

Yes _____ or No _____

If no, please explain the additional requirement(s) applicable to business entities and provide the authority in your statutes or regulations for imposing such requirement(s). (Please use separate page(s) if necessary.)

B. Other than the four requirements stated in A above, do you have the legal authority to waive any requirements relating to the licensing of a non-resident producer if the non-resident producer's home state grants licenses to producers from your state on the same basis (see Sec. 16, PLMA)?

Yes _____ or No _____

Citation (if applicable): _____

C. 1. In your jurisdiction will a non-resident license be granted for at least the same scope of authority as the non-resident producer applicant's home state license?

Yes _____ or No _____

Citation (if applicable): _____

~~9-24-04~~ DRAFT – July 30, 2009

2. Does your state require a non-resident applicant seeking a variable life license to also obtain a life license?

Yes _____ or No _____

Citation (if applicable): _____

If yes, will you waive this requirement? _____

- D. In your jurisdiction is a non-resident producer's continuing education requirement met if the non-resident producer fulfills his or her home state CE requirement (if home state also grants such reciprocity)?

Yes _____ or No _____

Citation (if applicable): _____

- E. Please answer each of the following questions and for each "yes" answer indicate whether you will waive the requirement in order to achieve non-resident producer licensure reciprocity.

In your jurisdiction:

1. Is an appointment required prior to or concurrent with licensure?

Yes _____ or No _____

Citation (if applicable): _____

If yes, will you waive this requirement? _____

2. Are there any bond, E & O, deposit, tax clearance or trust account requirements for non-resident producer applicants?

Yes _____ or No _____

Citation (if applicable): _____

If yes, will you waive this requirement? _____

3. Are non-resident surplus lines producers required to post a bond?

Yes _____ or No _____

Citation (if applicable): _____

If you answered "yes," when is the bond required to be posted? (For example, before licensure? Or at some point after licensure?)

Please explain: _____

If the bond is a licensing requirement, will you waive this requirement? ____

4. a. Are non-resident surplus lines producers required to obtain an underlying general lines or P&C license as a condition to surplus lines licensure?

Yes _____ or No _____

Citation (if applicable): _____

- b. If you answered "yes" to E.4.a., is the surplus lines producer also required to perform the diligent search of the admitted market in your state?

Yes _____ or No _____

Citation (if applicable): _____

- c. If you answered "no" to E.4.b., will you waive this requirement for non-residents?

~~9-24-04~~ DRAFT – July 30, 2009

4.5. Are there any training, education, prior experience requirements or minimum age requirements for non-resident producer applicants?

Yes _____ or No _____

Citation (if applicable): _____

If yes, will you waive this requirement? _____

56. Are there any provisions allowing only resident producers to sell or solicit insurance or bonds for state business, special funds or entities or state funded projects?

Yes _____ or No _____

Citation (if applicable): _____

If yes, will you waive this restriction for non-resident producers? _____

F. Under the laws of your state, are there any post-licensing or other regulatory requirements imposed upon any non-resident producer that limit or condition the non-resident producer's activities because of such producer's resident or place of operations, or that otherwise subject the non-resident to different or discriminatory regulatory requirements than those imposed upon residents?

Yes _____ or No _____

If yes, please list the post-licensing/other regulatory requirements:

Citation (if applicable): _____

Do you have the legal authority to waive any of the requirements listed above?

Yes _____ or No _____

If you have such authority, will you waive any of the requirements listed above?

Yes _____ or No _____

CERTIFICATION

I hereby certify that I am familiar with the laws, decisions, rules, regulations and other state action having the effect of law in my jurisdiction and upon review of the same affirm that the responses to the above and foregoing are true and correct. Moreover, I hereby further certify that I have the authority to waive those producer licensing requirements as indicated hereinabove and agree to waive said requirements in order to meet the reciprocity standard for non-resident producer licensing as set forth in the Gramm-Leach-Bliley Act.

Date: _____

(Signature)

Title: _____

This document is not intended to reflect any position statement of the NAIC, but has been prepared solely to assist the NARAB Working Group in its review of "State laws" under the reciprocity provisions of Public Law 106-102.

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Draft: 9/28/09

Producer Licensing (EX) Working Group
Washington, DC
September 22, 2009

The Producer Licensing (EX) Working Group of the Producer Licensing (EX) Task Force met in Washington, DC, Sept. 22, 2009. The following Working Group members participated: Anne Marie Narcini, Chair (NJ); Linda Brunette, Vice Chair (AK); Keith Kuzmich (CA); Luther Ellis (DC); Ron Henderson (LA); Robert Commodore (MN); Matt Barton (MO); Bobby Perkins (MS); Bruce Ramge (NE); Barb Richardson (NH); Ron Gallagher (NY); Joy Miller (NV); Jack Yanosky (PA) and Andrew Pauley (WV).

1. Adoption of July 13, August 13, August 27 and September 10, 2009, Conference Call Meeting Minutes

Mr. Commodore made a motion to adopt the conference call minutes of Sept. 10, Aug. 27, Aug. 13 and July 13 (Attachment Six-A, Six-B, Six-C, and Six-D). Mr. Ellis seconded the motion. There was no additional discussion, and the minutes were unanimously adopted.

2. Discuss Continuing Education

Ms. Narcini advised that Mr. Brungardt made significant progress with the continuing education (CE) charges for the group. Ms. Narcini stated that Mr. Brungardt was unable to attend the National Meeting but she wanted to announce that the Working Group had adopted the Continuing Education (CE) Online Course Guidelines during the Aug. 27 conference call and the Continuing Education Reciprocity (CER) Form was adopted on the Sept. 10 conference call. She said both items can be found on the Working Group Web page.

3. Flood Update/FEMA Status

Harriet Kinberg (Federal Emergency Management Agency – FEMA) stated that a letter had been issued to the NAIC towards the end of July 2009 thanking the PLWG and NAIC for the assistance with the model bulletin on flood insurance training. Ms. Kinberg stated that there has been a demand for advance flood training beyond the original basic training previously established, so FEMA had created advanced training topics. Ms. Kinberg reviewed the advance training topics and learning objectives, and encouraged the Working Group members to work with their CE providers to develop advanced courses in flood. Ms. Kinberg also announced that FEMA was working with AICPCU to create a flood insurance designation. She stated that this process is still in the early stages but FEMA will continue to update the NAIC and the state insurance departments as it develops. Ms. Kinberg stated that this topic would be discussed further during the April 2010 Flood Conference and she encourage everyone to attend.

4. Electronic Issues Update

Susan Maldonado (NIPR) provided an update on NIPR's process of collecting e-mail addresses and phone numbers. She stated that NIPR will be building a repository to hold the e-mail addresses and phone numbers that will be updated on a nightly basis. She said the repository would reflect the same e-mail address and phone number that is found on the uniform application. She said the concept draft would probably not be available until 2010.

Ms. Wolf stated that phase II for the attachment warehouse program; the Reporting of Actions (ROA) is in progress. She stated that e-mail communication has been taking place with the state insurance departments. She stated that the first initial contact went out on behalf of Director Linda Hall (AK), notifying commissioners of the attachment warehouse capabilities and ROA and a follow-up e-mail was distributed by Greg Welker (NAIC) to the licensing directors, and then an e-mail was sent by Tiffany Doenges (NIPR) sent notice to licensing contacts addressing the upcoming webinar dates for the reporting of actions process. Ms. Wolf stated that at this time, 32 states have confirmed that they will participate in the ROA. She stated that contact will be made with the remaining states to encourage their involvement.

5. Discuss Uniform Guidelines Background Check Review

Ms. Narcini stated that the Working Group has been continuing their work on the uniform guidelines for background check review charge presented to them for 2009. Ms. Narcini stated the Working Group met by conference call on Aug. 27, 2009 to

discuss a draft dated Aug. 3, 2009. She stated that during that conference call the Working Group agreed to some changes that were to be made for the new draft.

Ms. Narcini stated the new draft dated Sept. 11 was distributed prior to the Fall National Meeting. She explained that the new draft also includes some submitted suggestions from Ms. Richardson and that Mr. Kuzmich had submitted written comments. Ms. Narcini referred the working group to a separate document she had prepared to address some concerns that were expressed regarding Ms. Richardson's approach to decline an application where the applicant failed to disclose a criminal or regulatory matter, but allow the applicant to resubmit with the correct information. Ms. Richardson's draft language indicated the denial was not reported to RIRS since it was not a final administrative action, and some regulators expressed concern with this approach.

Ms. Narcini reviewed the changes that were suggested to be made to the document dated Sept. 11.

- Page Three

Mr. Kuzmich requested that in the fifth example of criminal convictions, language clarifying that the examples include but are not limited to be added. The working group agreed to change the language "Violent crimes including murder, attempted murder, assault, rape and other sexual crimes that impact public safety" to "Violent crimes including but not limited to murder, attempted murder, assault, rape and other sexual crimes that impact public safety".

- Page Four and Page Seven

Ms. Narcini stated that Ms. Richardson had submitted language that would address when an applicant fails to disclose information on an application and the working group discussed both Ms. Richardson's suggested changes and Ms. Marconi's revisions to those changes. The Working Group's considered making some changes to the revisions to Ms. Richardson's draft as suggested by Ms. Narcini but did not reach immediate consensus.

- Page Eight

Treva Donnell Wright from the Kentucky Department of Insurance asked the Working Group if it was their intent to limit denials by the nonresident state only to the example listed in the second to last paragraph of the document. Ms. Narcini stated that these situations can be very fact specific and asked if it would help to add the language "An example would be" to the second to last paragraph, at the beginning of the second sentence starting with "In situations where the crime or regulatory offense..." The Working Group agreed.

Ms. Narcini stated that due to the discussion generated from the new language and the changes being made today the Working Group may still need to review the draft further before final adoption can be considered.

Mr. Commodore stated that it was his understanding after the last conference call that the Working Group was in agreement on the document aside from the few areas discussed today and that he was prepared to adopt the document he saw prior to the revisions suggested by New Hampshire. Mr. Commodore asked if the additional language suggested was not added, would the Working Group be in agreement to move the document forward. Mr. Commodore made a motion to adopt the Uniform Guidelines Background Check Review with the changes agreed to by the Working Group and without the language submitted by New Hampshire. Mr. Chaskey seconded the motion and said staff in New York had agreed to the changes made without the additional language from New Hampshire and perhaps those suggestions were better suited for the State Licensing Handbook. Ms. Richardson stated her suggestion was in response to some concerns and discussion from the August 27 call but she was fine with not including the language. The working group agreed that the issue would be best addressed in the next revision of the State Licensing Handbook. Mr. Commodore agreed to a friendly amendment to his motion that the working group adopt the document with the agreed to changes and when the State Licensing Handbook is reviewed next, that it considers the language submitted by Ms. Richardson for inclusion. Mr. Chaskey agreed to the friendly amendment. There was no additional discussion, and the Uniform Criminal History and Regulatory Actions Background Guidelines were unanimously adopted.

6. Discuss Limited Line Charge

Ms. Brunette said there has been continued work on the Working Group's limited line charge. The charge states that the Working Group is 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.

Ms. Brunette reviewed the current progress of the Working Group. She stated that a new draft concerning the ancillary line definition and the structure will be completed and distributed to the Working Group for a conference call to take place sometime in October. Ms. Brunette stated she did not know if the charge would be finalized and ready to be adopted at the Winter National Meeting.

Ms. Brunette stated the Working Group has been meeting by conference calls to discuss the drafts that have been distributed on the definition of ancillary line and potential licensing requirements. She stated that it has been a challenging process for the Working Group to agree on the direction or purpose of the ancillary line. She stated that some states have voiced a concern on going with this new limited line if it will require states to go back to their legislators for law changes to implement. She stated the intent is for the Working Group to continue discussing the limited lines charge and the language found within the PLMA in order to resolve how the new ancillary line structure will affect each state.

Ms. Narcini stated that the Working Group will continue to work on completing this charge with conference calls. She stated that the Working Group should expect to see a new draft from Ms. Brunette in the next few weeks and it will be open for comments.

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

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Draft:

Producer Licensing (EX) Working Group
Conference Call
September 10, 2009

The Producer Licensing (EX) Working Group of the Producer Licensing (EX) Task Force met via conference call September 10, 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); Leroy Brungardt (KS); Ron Henderson (LA); Robert Commodore (MN); Matt Barton (MO); Jason McCartney (NE); Barb Richardson (NH); Joy Miller (NV); Jack Panofsky (PA); Matt Ray (TX) and Andrew Pauley and Elizabeth Webb (WV).

1. Discuss Continuing Education

Ms. Narcini advised that the first topic for the conference call was to discuss the Continuing Education Reciprocity (CER) Form. Ms. Narcini advised that Mr. Brungardt would be discussing the revisions.

Mr. Brungardt stated that he took the comments made after the last conference call and further revised the CER Form. Mr. Brungardt reviews the form, pointing out the additional revisions completed.

Ms. Richardson made a motion to adopt the revised CER Form. Mr. Ellis seconded the motion. There was no additional discussion, and the document was unanimously adopted.

2. Discuss Limited Line Charge

Ms. Brunette stated that today's call will be to address the draft document dated August 21, 2009. Ms. Brunette stated the document provides a revised draft definition for the ancillary line and also drafts out the concept behind the limited lines licensing requirements.

Ms. Brunette reviewed the progress of the limited line charge and reviewed the new draft document. Ms. Brunette stated the first comment letter was from Bobby Perkins (MS) and other southeast zone members. Ms. Wright-Donnell addressed the comment letter stating their concern was that they did not wish to limit the fingerprinting of these licensed individuals, and in addition concerns with rolling the travel and car rental limited lines into an ancillary line. Ms. Wright-Donnell stated that the goal remains the same for all regulators. Ms. Narcini asked if they would support an ancillary line if it did not include car rental and travel by definition but if those limited lines were treated in the same way that a new ancillary line would be. Ms. Wright-Donnell said that would help and stated that those individuals responsible for selling insurance should maintain a license. Ms. Wright-Donnell suggested that in many instances the enroller exemption from licensure is applicable in these limited lines. Ms. Wright-Donnell stated a primary individual would be licensed, maintaining the necessary requirements and this individual would be held as the responsible party conducting business. Other individuals in the business would just enroll people for the limited lines products. Mr. Henderson stated he agrees with Ms. Wright-Donnell. Ms. Wright-Donnell stated she would consider travel and car rental different when compared to other areas such as cell phone coverage.

The Working Group discussed the comment letter submitted by Mr. Perkins and other members of the southeast zone. The Working Group members agreed that there is concern regarding what type of lines would fall under the new ancillary line and what the requirements would be for those holding an ancillary line. Ms. Brunette stated that the need for a more uniform approach to incidental products and for less stringent and costly licensing requirements was the reason the charge was brought to the Working Group.

Ms. Wright-Donnell stated the enroller process is based from the Producer Licensing Model Act Section 4(B) 2 stating: "A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance; or for the purpose of enrolling individuals under plans; issuing certificates under plans or otherwise assisting in administering plans; or performs administrative services related to mass marketed property and casualty insurance; where no commission is paid to the person for the service;". Ms. Wright-Donnell stated the enrollers would not be required to go through the fingerprinting process.

Ms. Narcini stated the Working Group should consider two separate issues. The first would be the concern about whether car rental and travel would be moved under the ancillary line or, if because of concerns about changing laws, the group should consider ancillary limited lines to be defined as only *additional* incidental coverage's not already covered under the existing

“core” limited lines. The second issue would be to address the licensing requirements for all the limited lines. Ms. Narcini stated the concept of using an enroller may assist with this process.

The Working Group discussed whether a state would be required to go back to their state legislators to adopt a new definition if the definition of ancillary limited line as drafted was adopted, but made no final decision.

Mr. Henderson asked where credit lines would fall in regards to the ancillary line definition and structure. Ms. Brunette stated the Working Group agreed during the last discussion that credit would remain a separate issue until the definition and structure had been determined.

Ms. Brunette stated that John Fielding (Steptoe & Johnson LLP) had submitted comments on behalf of the US Travel Insurance Association (USTiA), concerning the structure of the ancillary line. Mr. Fielding stated there is no conflict with a core limited line being part of the ancillary line, and that travel insurance would be a great example. Mr. Fielding stated 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. Mr. Fielding stated that the current process does not work and this is the reason the NAIC officers brought the matter to the Working Group to review and come up with a better uniform process.

Ms. Wright-Donnell asked Mr. Fielding if they want to change how travel agencies are licensed and what their requirements will be, or if this is more for listing of individuals involved. She asked if they wanted to streamline the limited line process. Mr. Fielding stated there are issues in the marketplace with the current licensure process which have contributed to the current initiative to change the process and make it more efficient.

Mr. Fielding stated their proposal would be to have a specific individual that regulators could hold responsible for any insurance issues. This individual would be responsible for training for those offering of the product, and that this would provide overall compliance and consumer protection. Mr. Fielding stated there would be wholesale level producer responsible for the conduct of the enrollers and that wholesaler would keep a listing of those who offer the product. Mr. Fielding stated that this would work with other retailers offering ancillary products; they have forms that offer coverage, they answer only the basic questions. In their proposal any questions that are more detailed would be presented to the licensed individual. The wholesaler would be required to obtain a business entity license, name a designated responsible licensed party and meet other specific requirements outlined in their proposal.

Greg Mitchell (Frost Brown & Todd) stated the intent of outlining the process is to find an effective means to create uniform solution to the current issues being presented today.

The Working Group discussed the process explained by Mr. Fielding with emphasis on who would specifically be the licensed producer(s) and how the payment would be established by either salary or commission. The Working Group also discussed whether travel should always be considered a group product. No consensus was reached on the proposal submitted.

Ms. Narcini stated that it is important for the Working Group to remember the charge is not only to address the issues with travel but all limited lines and that any new process the Working Group creates for ancillary type products should be useful for all incidental type insurance products.

Ms. Brunette stated that there are a few states that license mobile communications equipment line and asked about their experiences. Mr. Kuzmich stated he could not comment on mobile communication, but California treats rental car in a manner similar to the process the group was discussing. Mr. Kuzmich stated that a license would be obtained for the company (i.e Enterprise or Hertz) and the named company would then have to submit training materials for approval by the state. Mr. Kuzmich stated that the actual licensed party would then need to be listed on any marketing materials. Ms. Chaskey stated that New York treats wireless communication in the same manner; however it is not an incentive sale. Mr. Kuzmich stated that travel was different than how car rental is handled and he would have concern about bonuses/commission received for selling travel insurance products.

Ms. Brunette stated that she will take into consideration everything that was addressed on the call focusing on the key concerns. Ms. Brunette stated the three main areas consist of; a) updating the draft to include an option to remove car rental and travel from the definition of ancillary limited line; b) address who should be licensed and the licensing requirements, focusing on the possibility of an enroller option and c) address any concerns on whether those offering these products sell, solicit, or negotiate insurance and establish the guidelines for this new limited line.

Ms. Brunette stated due to time constraints, she believed there will only be an update taking place at the Fall National Meeting in DC, with a conference call taking place during the first half of October.

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

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Draft:

Producer Licensing (EX) Working Group
Conference Call
August 27, 2009

The Producer Licensing (EX) Working Group of the Producer Licensing (EX) Task Force met via conference call July 13, 2009. The following Working Group members participated: Anne Marie Narcini, Chair (NJ); Linda Brunette, Vice Chair (AK); Julian McCoy (CA); Luther Ellis (DC); Philip Fountain (FL); Leroy Brungardt (KS); Tammy Williams (LA); Robert Commodore (MN); Bobby Perkins (MS); Matt Barton (MO); Jason McCartney (NE); Barb Richardson (NH); Joy Miller (NV); Clark Williams and Steven Matuscello (NY); Jack Yanosky (PA); Matt Ray (TX) and Andrew Pauley and Elizabeth Webb (WV).

1. Discuss Continuing Education

Ms. Narcini advised that the first topic for the conference call was to discuss the two topics regarding Continuing Education: Continuing Education (CE) Online Course Guidelines and Continuing Education Reciprocity Form (CER Form). Ms. Narcini advised that Mr. Brungardt would be discussing the current status on the CE issues.

Mr. Brungardt stated that after reviewing the comments received on both documents he and his staff have created a revised draft and it was issued out to the PLWG prior to today's conference call. Mr. Brungardt reviewed the revised CE Online Course Guidelines Draft.

Mr. Commodore made a motion to adopt the CE Online Course Guidelines Draft dated August 20, 2009. Mr. Ellis seconded the motion. There was no additional discussion, and the document was unanimously adopted.

Mr. Brungardt reviewed the revisions completed to the CER Form and the instruction sheet. The Working Group discussed the form by section suggesting changes to be made before the form can be adopted by the Working Group.

- Provider Information

Ms. Miller stated that the Federal ID is no longer listed at the top next to the Provider Name. Ms. Miller stated that this information is important for Nevada to record. Mr. Brungardt agreed and advised the changes would be made.

- Course Information

Ms. Arnold suggested that the section for the course title be bigger to accommodate providers that have long titles for courses. Mr. Brungardt stated that this can be accommodated with formatting changes.

- Credit Hours Requested and Course/Hours Decision

Mr. Brungardt advised the Working Group that there is a correction to be made to the draft for the section labeled "hours requested by home state." Mr. Brungardt stated that this should actually read "hours approved by home state."

Ms. Wright-Donnell of the Kentucky Department of Insurance suggested the instructions for the section labeled "A.) Insurance Topics:" should be changed from "Circle Appropriate Line" to "Circle Appropriate Course Concentration". Mr. Brungardt agreed on the change.

Mr. Commodore questioned whether it would be necessary to circle the course concentration since the provider will be putting down the appropriate hours on the specific section. Mr. Brungardt stated that this could be left to each state's discretion. The Working Group discussed the areas of concentration listed under the "Insurance Topics". Deborah Fike (Alabama Department of Insurance) stated that they would definitely need the providers to circle their area of focus when it pertains to the topic listed as "Other." Mr. Commodore stated that there is no line by "Etc" for a provider to identify the "other" topic. Mr. Brungardt agreed and stated that he would add a blank line in place of the "Etc" for an individual to enter in the topic name.

Ms. Wright-Donnell stated that Kentucky has been tracking the National Flood Insurance Plan (NFIP) courses and asked if the Flood listed under the “Other” topic pertains to that plan. Mr. Brungardt said that was correct and said the word “Flood” would be changed to “NFIP”.

Mr. Perkins asked if personal lines could be moved to the same line as property and casualty. The Working Group agreed with this change.

Mr. Brungardt reviewed the instruction sheet noting that the only changes made were to the order and minor formatting. Mr. Brungardt stated that he and his staff would review the changes made today and confirm they match the instruction sheet. Mr. Brungardt stated that the new revised CER Form would then be distributed to the Working Group for consideration for adoption.

Ms. Narcini stated that the newly revised form will be distributed early next week and the Working Group can vote on adopting the CER Form at the beginning of the September 10, 2009 conference call.

Discuss Uniform Guidelines Background Check Review

Ms. Narcini stated that several comments have been received on the Uniform Guidelines Background Check Review draft dated August 3, 2009. Ms. Narcini stated that for ease of discussion, she would review the comments in the order they appear in the document.

- Page 1

Ms. Narcini addressed the comments received on page one of the draft document. Mr. Kuzmich provided a comment stating there are four not three situations when a review of criminal history or regulatory actions could come into consideration in the licensing process, with the fourth time being when some jurisdiction that fingerprint receive notice of a subsequent arrest. The Working Group discussed the suggested change. Ms. Richardson stated that in addition to the language recommended by CA, language should be added that reports come “from the State Department of Justice or the Federal Bureau of Investigation” since not all jurisdictions receive the information from their Department of Justice. The Working Group agreed.

- Page 3

New York provided a comment on the second paragraph, first sentence specifically on the word “crime.” New York’s comment stated “this information should be compared to the duties requisite to holding an insurance license and any requirements or responsibilities required in statute that do or will apply to a licensee ie, fiduciary requirements.” Hearing no objections to the concept, Ms. Narcini stated that she would take this comment under advisement when making changes for another draft so that this comment would be reflected.

California provided a comment on the third paragraph adding the word “charge” before “conviction” on the first sentence. California’s suggestion read, “A charge or conviction which evidences present or potential unfitness to perform the functions authorized under the license in a manner consistent with the public health, safety and welfare including, but not limited to:” Ms. McCoy stated that the DOI in California has a bad actor statute that allows you to take action against an individual based on criminal charges.

Ms. Richardson questioned whether California’s statute considers whether an individual has been convicted or not. Ms. McCoy stated that it is not just convictions; the Department of Insurance wants to know whether an individual has been charged or convicted of a crime. The Working Group discussed and agreed that they would not add “charged” to the language.

Ms. Narcini stated that New York submitted two comments on page three. The first would be to change the fifth type of conviction “Crimes involving sexual misconduct” because sexual misconduct would be considered too general. The Working Group agreed to make changes to include language recommended by New York. The second comment presented by New York was for language in the section listing circumstances to consider related to the conviction that states “the Department shall also review and consider the applicant’s statement and evidence of rehabilitation.” Mr. Chaskey’s comment suggested the timing of that award should be considered, for example whether it was issued as part of a plea bargain at time of

conviction or after successful completion of the sentencing requirements. The Working Group agreed to add “whether the applicant was given a certificate of good conduct or pardon to the offense and under what circumstances.”

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Ms. Narcini stated that California submitted a comment on the last sentence of the first paragraph. The comment suggested adding verbiage; “The Department may also consider issuance of a restricted license in which the licensee shall abide by all laws or their license can be summarily revoked. The Department may impose cost reimbursements with the issuance of a restricted license.” The Working Group agreed to add “The Department may also consider issuance of restricted license and all the conditions there to.”

Ms. Narcini stated that California suggested adding the following language at the end of the second paragraph, “or issue the license and later revoke the license if the individual does not make payment within a certain time period.” She said California also suggested adding a new paragraph: “Prior to denying the license or issuing a restricted license, in some states, the Department must afford a right to a hearing to the applicant. A statement of issues or accusation is issued in conjunction with the right to a hearing (i.e. Notice of Defense) or stipulation (i.e. Special Notice of Defense) if restricted license or a monetary penalty is being offered.”

Ms. Richardson stated that, if there is incorrect information, New Hampshire would deny the license and request that the individual provide honest and correct information so that the state could review and issue a license, if appropriate. Ms. Narcini asked Ms. Richardson to provide language on this section and submit it for the Working Group to review.

Ms. Narcini stated that there may not be enough time to address all the comments submitted on today’s conference call but she would like to continue with a few more comments before the Working Group adjourns.

Ms. Narcini stated that Mr. Chaskey had submitted a comment at the last sentence under the section on “Criminal Background and the 1033 Waiver Process”. Ms. Narcini stated that the comment requests addition of the following language: “States should pay particular attention to the conditions of a waiver to determine if the waiver was granted with a limited scope, i.e specific employment with a defined set of job duties or is general in nature.” The Working Group discussed agreeing that the word “waiver” should be removed and replaced with “written consent.” Ms. Narcini stated that this would be further reviewed for the new draft and she would also reach out to the Anti Fraud Task Force to see if they had any recommendations for this section.

- Page 5

Ms. Narcini stated that the Council of Insurance Agents & Brokers submitted a comment regarding the licensing history of regulatory actions. Nicole Allen (Council of Insurance Agents & Brokers – CIAB) stated that they had a concern with the list of items that a state regulator should consider when reviewing an applicant’s or licensee’s history of regulatory actions. Ms. Allen stated that Item four in that list asks whether the incident is a single one or a pattern of violations. Ms. Allen suggested in their letter that “this item should be clarified to note that a “pattern of violations” should not include regulatory actions by multiple states as the result of a single regulatory action in one state.” The Working Group discussed. Ms. Narcini stated that she would review and add some new language on next draft to address this issue.

- Page 6

Ms. Narcini stated that California submitted a comment to the last paragraph on page 6 prior to the new section “Deference to the Resident State”. California asked in their comment “Any consideration for putting a time frame by which the background check must be concluded by the resident state?” The Working Group discussed. and decided this was not an issue to address in this document unless reference was made to making a determination within a reasonable time period upon receipt of all documentation from the applicant or licensee.

Ms. Narcini stated that there would be a new draft distributed to the Working Group for review and that this document would be discussed at the Fall National Meeting, with the intent to adopt it at that time. Ms. Narcini stated that the Working Group’s next conference call on Sept. 10 would focus on adopting the Continuing Education Form and discussing the limited lines charge.

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

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Draft: 9/18/09

Producer Licensing (EX) Working Group
Conference Call
August 13, 2009

The Producer Licensing (EX) Working Group of the Producer Licensing (EX) Task Force met via conference call Aug. 13, 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); Leroy Brungardt (KS); Ron Henderson (LA); Bobby Perkins (MS); Matt Barton (MO); Jason McCartney (NE); Joy Miller (NV); Jack Chaskey (NY); Jack Yanosky (PA); Matt Ray (TX); and Greg Elam (WV).

1. Discuss Limited Lines Charge

Ms. Narcini stated that the purpose of this conference call was to address the charge related to limited lines. Ms. Narcini stated that Ms. Brunette would lead the call, because she has been leading the work being produced regarding the ancillary line definition.

Ms. Brunette stated that the agenda for this conference call will be to finalize the ancillary definition, discuss a potential framework for limited lines and discuss the direction for the Working Group to proceed forward. Ms. Brunette stated that the current draft definition dated Aug. 12 was distributed prior to today's call. Ms. Brunette reviewed the new definition, explaining that the changes that were made are in response to comments received after the July 13 conference call. Ms. Brunette stated that the definition now reads: "Limited Lines Ancillary Insurance — Specific types of insurance offered, solicited or sold as an add-on in connection with and incidental to goods or services sold to the consumer under an individual policy, group policy or group enrollment under a master policy, including coverage for (i) travel; (ii) car rental; (iii) [state may list other lines it fits into this category, including self-storage, pet, portable electronics]; or [(iv)] any other similar coverage's as designated by the insurance commissioner."

Mr. Brungardt stated that the Aug. 12 definition provides examples within the definition that help describe what is to be covered. Mr. Ellis stated that the definition captures what the general population has been requesting. Mr. Ellis noted that the word "policy" was used three times and suggested changing the language to use a different word. Ms. Brunette stated that she would research other words with the same meaning that could be used. Mr. Ellis stated that, once those changes were made, he would agree with the definition. Ms. Narcini stated that she also agreed with the Aug. 12 definition.

Mr. Fountain questioned who would control which additional lines could be included in the current definition. The Working Group further discussed this question. In addition, the Working Group discussed whether those states that have adopted all or some of the language from the Producer Licensing Model Act (#XXX) regarding limited lines would have to go back to their legislature to change their current insurance codes if this new ancillary definition is adopted. The Working Group discussed how the new ancillary line would be handled in each jurisdiction, providing some specific examples. Ms. Brunette stated that, depending on the state, there might be either a simple change with a rule, regulation or bulletin; however, other states that would require an actual statute change. Ms. Brunette stated that everyone would agree that no one wants to make these changes; however, due to the current lack of uniformity within limited lines, the process needs to change.

Ms. Narcini stated that the charge presented to the Working Group is to examine limited lines and present recommendations to achieve a more uniform approach. Ms. Narcini stated that the Working Group was not asked to determine whether law changes were necessary. Ms. Narcini stated that the goal of the Working Group at this stage is not to determine what is going to be finally adopted, but to agree on what should be addressed as they worked toward the definition.

Ms. Wright-Donnell stated that the Working Group should consider adding a drafting note to the definition to address credit as a limited line. The Working Group discussed whether credit would be considered a limited line or ancillary line. The Working Group then decided that, because credit was specifically mentioned in the Producer Licensing Model Act, any further discussion on the ancillary line would not pertain to credit at this time.

Shirley Kerns (Pennington Law) asked the Working Group if the purpose of the definition was to cover types of insurance that would be sold incidentally to a non-insurance good or service. Ms. Kern stated that if this is the intent, then the placement of the words "goods or services" should be changed — because as currently drafted, it appears that they need to be insurance-related. The Working Group discussed and changed definition to read: "Ancillary Line — Specific types of insurance sold to the consumer under individual, group or group enrolment under a master policy and that are offered,

solicited or sold as an add-on in connection with, and incidental to, non-insurance goods or services, including coverage for (i) travel; (ii) car rental; (iii) [state may list other lines it fits into this category, including self-storage, pet, portable electronics]; or [(iv)] any other similar coverage's as designated by the insurance commissioner.

John Fielding (Steptoe & Johnson) stated a concern regarding the non-insured products. Mr. Fielding stated that these types of products might not be bought at the same time; for example, a person might book a trip now, but not purchase travel insurance until a later date. Mr. Fielding stated that he wants the Working Group to be aware of these types of situations when changing the definition.

Ms. Brunette asked Mr. Fielding to review and provide any comments on the new draft definition. Ms. Brunette stated that she would like the Working Group to address the conceptual requirement for limited lines structure, because the existing structure does not work — and there have been comments submitted stating the same. Ms. Brunette stated that the Working Group should decide whether the full licensing requirements would need to be in place for this line. And, if so, she said the Working Group needs to develop a workable framework for uniform national licensing. The Working Group discussed the limited lines licensing process and if it should stay the same for all limited lines, whether considered an ancillary line or not.

Ms. Narcini stated that everyone should think about what type of structure is needed for ancillary, and then see which limited lines would fall under that same structure. The Working Group discussed the current structure and whether it would apply to all limited lines. The Working Group agreed that there should be three different standards: major lines, limited lines and ancillary lines. Mr. Perkins confirmed that the creation of this ancillary line would be to incorporate all of the incidental lines into one line. Ms. Narcini and Ms. Brunette agreed that this is the goal of the Working Group. Ms. Brunette stated that the Working Group should focus on the ancillary line right now, and defer discussion on major lines and core limited lines.

Mr. Fielding stated that his suggestion is for this new line to be treated the same as business entity license, with regard to the designated responsible party (DRP). Mr. Fielding stated that this should be considered as a registration process; i.e., the manager or DRP would be licensed and other parties would be registered. Mr. Fielding stated that each business would hold a detailed list of those persons to be kept for the state insurance department to review upon request.

The Working Group continued to discuss the registration process and address the individual state licensing process for limited lines. The Working Group also discussed how each jurisdiction addresses which individuals require licensure within business entities.

Ms. Brunette stated that a new draft definition and draft concept document regarding the licensing structure would be created and distributed to the Working Group for review. Ms. Brunette advised that all comments on the definition and structure should be submitted by Sept. 4. Ms. Brunette stated that there would be one more conference call prior to the Fall National Meeting to hopefully finalize the definition and structure.

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

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Draft: 9/11/09

Producer Licensing (EX) Working Group
Conference Call
July 13, 2009

The Producer Licensing (EX) Working Group of the Producer Licensing (EX) Task Force met via conference call July 13, 2009. The following Working Group members participated: Anne Marie Narcini, Chair (NJ); Linda Brunette, Vice Chair (AK); Keith Kuzmich (CA); Luther Ellis (DC); Matt Coxe (FL); Ron Henderson (LA); Robert Commodore (MN); Bobby Perkins (MS); Barbara Richardson (NH); Jack Yanosky (PA); and Greg Elam (WV).

1. Discussed Future Charges for 2009

Ms. Narcini advised the Working Group that there will be other conference calls scheduled before the 2009 Fall National Meeting. Ms. Narcini stated the conference call agenda topics will cover the Continuing Education issues, the Limited Lines Charge and the Uniform Criminal History and Regulatory Actions Background Review Guidelines Charge.

2. Limited Line Charge

Ms. Narcini stated there needs to be clarification on the Working Group minutes from the Summer National Meeting. Ms. Narcini stated the minutes said: "Mr. Ellis stated he would like to know the reason behind the change with travel and car rental since they were core limited lines. Mr. Ellis suggested leaving the core limited lines alone. Mr. Kuzmich agreed." Ms. Narcini said the minutes should reflect that Mr. Kuzmich is supportive of the ancillary line charge. Mr. Kuzmich stated that clarification by Ms. Narcini is correct.

Ms. Narcini stated that Ms. Brunette has been leading the work on this charge. Ms. Brunette reviewed the charge presented to the Working Group regarding limited lines as follows: (1) Review the limited line licensing issues with particular focus on the following: (a) 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; (b) the licensing requirements of individuals selling limited line insurance products; and (c) the fingerprinting of individuals selling limited line insurance products.

Ms. Brunette stated that the Working Group has made significant progress with limited lines over the past few years, mapping several of the smaller state-specific limited lines into the major lines of authority. Ms. Brunette stated the most recent proposed definition was created June 9 and was the result of discussions held during the 2009 Summer National Meeting. Ms. Brunette stated that the Working Group needs to keep the "big picture" in mind when determining the accurate definition for ancillary line. Ms. Brunette stated that there are requirements for the core limited lines that may not be necessary for the ancillary line.

Ms. Brunette stated that comments were received from other state insurance regulators expressing concerns that the new ancillary line and definition might require a legislative change. Ms. Brunette stated that there have been many reports confirming the need to update and reconcile the limited lines. Ms. Brunette stated that the changes to be made should be made through the uniform licensing standards and as such, the Producer Licensing Model Act (#218) will not have to be amended.

Ms. Brunette stated that she does not expect to adopt the ancillary line definition today. Ms. Brunette stated that further discussions and comments will be needed before final definition can be acted on by the Working Group. Ms. Brunette stated that today's conference call will focus on the definition only, all other matters will be addressed at another time.

The Working Group discussed the proposed definition dated June 9. Ms. Brunette reviewed the comments received from California and Kentucky. Mr. Kuzmich stated that the majority of comments presented from California were addressed at the Summer National Meeting. Ms. Wright-Donnell stated that Kentucky's comments were presented prior to the June 9.

The Working Group discussed the types of limited lines that would fall under the ancillary line. Mr. Perkins suggested that the specific types of insurance should be removed from the draft definition and, instead language be incorporated stating it is limited to "the following kinds of insurance regulated by the insurance commissioner." Mr. Ellis asked what would determine which limited line would remain a core limited line and which moved to an ancillary line. Ms. Landphier stated the definition should include language stating "does not include core limited lines". Ms. Brunette stated the Working Group would need to

determine whether any of the core limited lines would fall within the Ancillary Line definition. Ms. Narcini stated she would not support establishing a definition that excludes core limited lines since the very nature of some of those limited lines, such as travel or car rental are incidental and prohibiting them from being included would defeat the purpose of the charge. Ms. Brunette stated that while creating the definition, the Working Group should keep in mind the requirements and whether the same should apply to ancillary and core limited lines.

Greg Mitchell (Frost Brown Todd) stated that he would like the ancillary limited line definition to be broader in scope which would keep state legislatures from being involved. Mr. Mitchell stated that one of his firm's suggestions was to change the word "purchase" to "acquisition" To address circumstances when the insurance is purchased after the product or service is "purchased" to "acquisition"

The Working Group continued discussing the definition and came up with the following language: Insurance offered solicited or sold as an add on in connection with and incidental to the purchase of a good or services sold directly to the consumer at time of purchase or acquired thereafter or by pre-selection of coverage by master corporate group or individual agreement that is non-transferable limited to coverages designated by the insurance commissioner.

Wes Bissett (Independent Insurance Agents & Brokers of America - IIAA) stated that he was confused about the objective of the ancillary line definition. Mr. Bissett stated the IIAA was be interested to see how the ancillary line would be used in relation to the core limited lines and any other limited line. Mr. Bissett stated that not all the limited lines from all states would fall in the same category for similar treatment. Mr. Bissett stated that the Working Group should discuss the lines in more detail once the definition has been determined.

John Fielding (Steptoe & Johnston LLP) stated that part of the reason this charge was given to the Working Group was because some of the insurance products that are being sold or offered by individuals are not the primary products being offered. Insurance is in an ancillary category compared to the insurance that is sold in other categories such as the major lines. Mr. Fielding stated that the NAIC's leadership realized that the states need a way to track and regulate these areas without placing undo licensing requirements on the industry. By establishing a definition of what constitutes ancillary type products and formulating licensing requirements, the ancillary line, the industry will be able to comply with the states' requirements without considerable expense and resources. Mr. Fielding stated that he believes some of the core limited lines might be better defined as ancillary lines category once the definition is completed.

Mr. Perkins stated that the definition limits the coverage that will be included to what is approved by insurance commissioner which gives a state control over whether a limited line fits within the definition. Mr. Perkins stated that at this point there is no added language that would keep the core limited lines out of the ancillary line definition.

Ms. Brunette stated that she would review the definition that the Working Group has created today and add any language that has been suggested. Ms. Brunette stated that the definition will be distributed and available for comment until Aug. 3. Ms. Brunette stated that the Working Group's next step is to determine the requirements for the ancillary line. Ms. Narcini stated the Working Group should be thinking about the requirements for limited lines now and considering whether they are appropriate for products that are incidental in nature.

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

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