



Rico to review certain components of a state's producer licensing laws, practices and processes. This effort also involved significant preparation by the state's licensing staff as well as active participation by the Commissioners and their senior department officials.

In February 2008, the NAIC published the Producer Licensing Assessment Aggregate Report of Findings (Aggregate Report) which outlined the key findings, conclusions and recommendations for next steps. The Aggregate Report provided a national picture of the state of producer licensing and identified those areas of success as well as roadblocks in achieving full reciprocity and uniformity compliance. It also recommended areas for targeted improvement. The Aggregate Report provided the groundwork for several significant projects and initiatives assigned by the NAIC Executive (EX) Committee and managed by the Market Regulation and Consumer Affairs (D) Committee.

## **B. Implementation of Aggregate Report Recommendations**

### ***1. NARAB Working Group***

One of the significant initiatives stemming from the producer licensing assessment was to reconstitute the NARAB (EX) Working Group, to evaluate whether certain non-reciprocal states were eligible for reciprocity certification based on changes to their laws and regulations governing non-resident licensing. In 2008, the NARAB (EX) Working Group certified as reciprocal the District of Columbia, Montana, Indiana, Missouri, New Mexico and Tennessee based on the reciprocity standard outlined in the 2002 Report of the NARAB Working Group: Certification of States for Producer Licensing Reciprocity (2002 NARAB Report).<sup>1</sup> Forty-seven jurisdictions are now recognized by the NAIC as having met the reciprocity mandates of the Gramm-Leach-Bliley Act (GLBA). A map of the states currently certified as reciprocal is attached as **Appendix I**.

The NARAB Working Group formed last year was also charged to evaluate whether certain state requirements imposed upon non-residents and not necessarily addressed in the 2002 NARAB Report impact the reciprocity requirements of federal law or fall under the GLBA savings clause. Recognizing that both the producer licensing industry and producer licensing regulation have significantly evolved and modernized since 2002, the NAIC members willingly and voluntarily undertook this effort to carefully scrutinize possible additional reciprocity issues that exist today. In June 2008, the Working Group adopted a set of recommendations identifying five issues as potential violations of GLBA:

- Requiring an underlying life license prior to the issuance of a non-resident variable life license;
- Requiring the designated responsible producer to be licensed or appointed prior to the issuance of a non-resident business entity license;
- Requiring a non-resident business entity to submit articles of incorporation;

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<sup>1</sup> Because the original working group dissolved in 2004, the District of Columbia and Montana had not been formally certified as reciprocal by an NAIC committee though both received recommendations for reciprocity certification from the NAIC Legal Division.

Requiring individuals seeking a fraternal non-resident license to have an accident/health license and have a fraternal certificate from a company; and  
Requiring non-resident producers to renew licensure annually, while resident producers renew biennially.

The Working Group is currently considering preliminary recommendations on several additional possible GLBA issues, including among others, (1) requiring foreign corporations to register to do business and provide proof of foreign corporation registration and (2) requiring non-resident applicants to obtain a non-resident general or major lines license prior to the issuance of a surplus lines license.

A key finding in the Aggregate Report was disparate business entity licensing laws, regulations and practices and the need for standardization. The NARAB Working Group was charged with developing recommendations for simplifying and standardizing the business entity licensing process. The new Producer Licensing (EX) Task Force is currently gathering information on each of the practices identified for standardization and expects to provide a full set of recommendations in 2009.

## ***2. Producer Licensing Working Group***

In 2008, the Producer Licensing (D) Working Group was charged with further evaluating many of the Aggregate Report's findings and recommendations, including identifying which Uniform Licensing Standards should be considered professional licensing standards and which Uniform Licensing Standards were not generally supported by local industry organizations at the state legislative level. The professional standards adopted by the NAIC Executive (EX) Committee and Plenary in September 2008 were based on the Uniform Licensing Standards and covered four basic areas:

1. Legal authority to enter into contracts;
2. Education and initial testing for minimum competency;
3. Background checks for moral character; and
4. Ongoing commitment to professional conduct.

These standards go far beyond a code of conduct and are fundamental requirements found in many other professions, such as securities brokers, real estate agents and attorneys.

The Working Group also provided a candid assessment of barriers to implementation of uniform standards finding it is not always local opposition to implementation of the standards, but general lack of support due to other legislative priorities or inability to create sufficient industry/legislative interest.

The Producer Licensing Working Group spent considerable time in 2008 modifying the interpretive guidance associated with the Uniform Licensing Standards. The Aggregate

a background check based on either a paper or electronic fingerprinting process. The

Resident Licensing Renewals for Individuals – 17 states;  
Resident Licensing Renewals for Business Entities – 13 states;  
Appointment Renewals – 7 states;  
Electronic Funds Transfer for State Fees – 47 states;  
Address Change Requests – all states; and  
Attachments Warehouse – all states.

#### **D. Producer Licensing Coalition**

In June 2007, the NAIC/Industry Producer Licensing Coalition was formed as a partnership of regulators and national trade organizations, to focus and facilitate producer licensing uniformity initiatives. In 2009, the Coalition is comprised of 11 Commissioners and 13 national trade associations, including American Council of Life Insurers; American Insurance Association; America's Health Insurance Plans; Council of Insurance Agents & Brokers; CPCU Society; Independent Insurance Agents & Brokers of America; LIMRA; Million Dollar Roundtable; National Association of Insurance and Financial Advisors; National Association of Health Underwriters; Professional Insurance Agents; Society of Financial Service Professionals; and Property Casualty Insurers Association of America.

The Coalition has focused on targeted initiatives to further streamline the licensing process such as:

- Encouraging all state insurance departments to eliminate the proof of Secretary of State registration as a prerequisite requirement to licensing,<sup>2</sup>

- Exploring ways to reduce the administrative burden of the appointment process; and

- Discussing barriers to full adoption of major and core limited lines.

The Coalition also provided a forum for the exchange of views on proposed federal legislation, H.R. 5611, to create a National Association of Registered Agents and Brokers. Another important topic of discussion from the Coalition regulator members' perspective was the opportunity to encourage industry trade organizations to embrace and promote professional licensing standards at the national, state and local level, including supporting legislative and regulatory changes.

The Coalition has served as a conduit of useful information, opinions and ideas between regulators and industry representatives. Often times, this exchange has turned into an action item for the industry or regulators, whether to solicit feedback or support from their respective members or to develop a proposed solution to an identified issue. Therefore, it was not surprising that both the regulators and industry members of the Coalition readily joined forces to conduct this aggressive outreach effort. Every participant of this outreach effort—Coalition Commissioners, producer licensing

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regulators and representatives of industry organizations—has given willingly of their time to help states move even closer to full reciprocity and uniformity.

### **III. OVERVIEW OF PRODUCER OUTREACH EFFORT**

#### **A. Impetus for Outreach**

Under the leadership of NAIC President Roger Sevigny, the NAIC's producer licensing strategy has raised the awareness of the importance and challenges for achieving meaningful producer licensing reform. This topic is a regular discussion point among and between Commissioners and their producer licensing staffs at all levels of the NAIC committee structure. Because results of the producer licensing assessment confirmed that many of the remaining legislative and regulatory changes require active industry support, the Coalition has served a valuable purpose in gathering feedback on the dynamics of producer licensing issues, such as the level of support for minimum professional licensing standards including background check requirements.

As Chair of the Producer Licensing Coalition in 2008, Commissioner Sevigny suggested the Coalition concentrate on the needs of particular states and offer assistance and guidance based on state-specific dynamics and areas of noncompliance. For instance, a state insurance department struggling with eliminating excessive limited lines of authority will require the support of specific sectors of its local industry in order to propose legislation.

The peer-to-peer outreach of the producer licensing assessment provided NAIC members with an inventory of remaining compliance issues. In many cases, the Commissioner and Department were strongly in favor of making the identified changes, but were either unsuccessful in efforts to pass legislation or did not include proposals in legislative packages because of active opposition or simple indifference from one or more sectors of their producer licensing industry.

The Coalition outreach effort was intended to take this grassroots initiative to the next level. In keeping with the general recognition that, at all levels of government, constituency support is often a key ingredient to successful legislative change, it made sense to engage industry representatives in how and whether they can support certain state-specific producer licensing legislation. The Coalition leveraged the valuable information gained through the producer licensing assessments in order to have a better understanding of each state's needs in terms of (1) full PLMA adoption, (2) reciprocity (3) uniformity compliance, and (4) streamlining business entity licensing, appointments and electronic processing. This background information proved extremely helpful not only as the outreach team developed recommendations to bring to each state, but to facilitate a positive and productive dialogue with Commissioners and their staff.

## **B. Outreach Team Approach**

The Coalition outreach initiative was conducted in a similar manner to the producer licensing assessments in that outreach teams were formed and assigned to respective states. Each outreach team consisted of a Coalition Commissioner, two producer licensing regulators,<sup>3</sup> and two industry representatives. The following Commissioners participated on outreach teams: Pennsylvania Commissioner Joel Ario; Idaho Director Bill Deal; Alaska Director Linda Hall; Oklahoma Commissioner Kim Holland; Ohio Director Mary Jo Hudson; and Iowa Commissioner Susan Voss. The following producer licensing regulators participated on outreach teams: John Braun (UT); Linda Brunette (AK); Jack Chaskey (NY); Keith Kuzmich (CA); Rosanne Mead (IA); Anne Marie Narcini (NJ); Barbara Richardson (NH); Bobby Perkins (MS); Treva Wright-Donnell (KY); and Laurie 0 ; Trev Ki94ee1cs4lators par

producer licensing regulators reviewed whether states were imposing uniform licensing requirements and provisions for residents, which assures each state that non-resident producers are subject to similar licensing requirements in their respective home states. From the producer perspective, industry representatives were looking for general uniformity in licensing requirements and procedures so as to reduce the administrative costs of compliance. Specifically, the outreach effort focused on the following areas: (1) state adoption of key PLMA provisions; (2) non-resident licensing requirements potentially inconsistent with GLBA reciprocity requirements; (3) compliance with certain Uniform Licensing Standards; and (4) other key licensing areas.

The outreach teams reviewed whether a state had fully and uniformly adopted the following provisions of the PLMA:

- Section 2 – Definitions, specifically the definitions for home state, insurance producer, negotiate, sell, solicit, Uniform Application and Uniform Business Entity Application;

- Section 4B(6) – Commercial multistate risk exemption;





understanding of reciprocity, uniformity and other key issues at the national and local levels.

As part of this effort, national trade associations were encouraged to reach out to their state association chapters and to either include them in the calls with the state insurance commissioners or represent specific local concerns. The Professional Insurance Agents (PIA) consistently provided this coordination for the outreach calls. The National Association of Insurance and Financial Advisors (NAIFA) also contacted their local state associations in preparation for the outreach calls. This effort to include the state association chapters was a valuable part of the outreach as it gave Commissioners, where PIA and NAIFA were members of the outreach team, an opportunity to hear directly from producers operating in the marketplace. In addition, this effort provided all parties greater insights into what priorities are important at the state level and how these priorities are the same or vary from the priorities of the national producer licensing trade associations.

Industry trade associations were helpful in prioritizing the implementation of licensing

**B. Common Issues among Outreach Teams**

Consolidating available limited lines of authority into the core limited lines as defined by the Uniform Licensing Standards was addressed to some degree by at least 23 different state outreach teams. Acknowledging recent clarification to the uniformity standards, the ultimate uniformity goal is for all states to eliminate disparate and specialized limited lines of authority in favor of the core limited lines of authority and map additional lines into applicable major lines of authority. In order to comply with non-resident reciprocity requirements, states are compelled to provide some type of non-resident limited license to applicants holding non-core limited lines, even though these lines do not synchronize with the limited lines offered to its resident producers. In many outreach calls, the Commissioners indicated their willingness to eliminate additional limited lines but they faced challenges from sectors of their local industry strongly in favor of particular

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eliminated by the Commissioner and the department. Industry offered whatever support necessary to help achieve elimination of this Secretary of State check altogether. Further, industry also indicated they would be lobbying state legislatures to enact a provision exempting foreign business entities from registering with the Secretary of State when seeking a non-resident insurance license.

**D. Recommendations for Next Steps**

The outreach process illustrated that states have already implemented changes based upon the ~~96450831J(4)-062ndca3716-77.035t-162alsalpr L~~

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4. Serve as informal focus group with NAIC staff for the development and delivery of a



assessment. It was not uncommon for states to change status from noncompliant to compliant, or vice versa, when they walked through the standards with the review team.

In September 2008, the NAIC updated the states' uniformity charts based on information provided by each state confirming a change in process or state law. For instance, the producer licensing assessment found several states were not fully utilizing the NAIC's uniform applications for resident and non-resident license applicants. Many states made changes soon after the assessment, which often moved them into compliance for this standard. This Fall 2008 update showed positive movement in 18 of the 38 Uniform Licensing Standards meaning that at least one, and in many cases more than one state, reported achieving compliance with one or more additional standards since their assessment. Out of the 45 states reporting updates, a total of 18 states reported a collective 41 positive compliance changes.

In conjunction with the outreach effort, states' compliance status has again been updated, moving the "check mark" from noncompliant to compliant. **Appendix II** provides a current aggregated uniformity compliance ch

producer representatives, toward meaningful, targeted producer licensing reform. The on-site assessment process was characterized as providing a roadmap for legislative and regulatory changes necessary to achieve complete reciprocity and uniformity. Using this roadmap, the outreach project was a vehicle for leveraging regulator and industry expertise to identify priority issues. The outreach effort built upon the factual basis provided by the assessments and assisted states in crystallizing their specific needs, whether, for example, to enlist industry support for legislative proposals or to revise business rules to accurately reflect Department practice.

Industry involvement was the key feature of the outreach process that propelled it beyond the assessment program. Industry participation enabled concrete gains in identifying and garnering support for further steps toward uniformity and streamlined licensing processes. The outreach process also highlighted areas where states receive inconsistent messages from national industry groups and local industry representatives. The Coalition acknowledges and deeply appreciates the extensive efforts and collaborative spirit demonstrated by the industry participants. It is also important to recognize the continued contributions of the Coalition Commissioners and producer licensing regulators who dedicated their valuable time to assist their fellow states and share their tremendous expertise.

As a result of the outreach process, states have an even better gauge on where they stand in relation to producer licensing goals, the specific steps needed to accomplish the goals and the industry and fellow regulator support available to help realize the goals. Consistent with the aggregate assessment report issued one year ago, this report is intended to assist the NAIC leadership and membership in further defining the roadmap for reform in 2009 and in evaluating options for the future of state-based producer licensing regulation.

## **APPENDIX I**

