



Marc Gilman

## Leveling Up: How Regulators Can Apply AI to Emerging Compliance and Conduct Risks

Insurance regulators are being confronted with rapidly expanding amounts of data that they must sift through to validate compliance with relevant rules and examine to identify evidence of potentially problematic conduct. Relying on technology to assist in these investigatory and oversight activities and replacing legacy manual processes is becoming increasingly common. Moreover, the use of solutions that employ Artificial Intelligence (“AI”) techniques for analyzing this data is on the rise. In this article, we’ll examine how insurance regulators can use AI to analyze emerging communications data like collaboration, video, and chat, as well as advertising and marketing information for regulatory, privacy, and cybersecurity risks. We’ll also examine how robotic process automation complements AI applications to improve process-heavy supervisory practices.

Before diving into our analysis, we should quickly define AI to establish a baseline understanding of the technology. Merriam Webster defines AI as “a branch of computer science dealing with the simulation of intelligent behavior in computers.” As a practical matter, that “simulation” can be achieved through a variety of computing techniques used to analyze data, which typically include machine learning, natural language processing, and deep learning. While there is no singular definition of AI, including one or more of these technologies in an effort to perform intelligent analysis is a good starting point. If you’re interested in a deeper discussion of these definitional elements of AI, see Financial Industry Regulatory Authority’s recent [Report](#) on AI in the Securities Industry.

Having established a baseline definition of AI, we can now examine how regulators could use it to better supervise firms.

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10/14/2020

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Collaboration tools like Zoom, Cisco Webex, and Microsoft Teams have facilitated more dynamic engagement by incorporating visual capabilities like web cams, whiteboarding, and screen sharing to supplement more traditional forms of exchange like email, chat, and document sharing. However, this diversity of content types poses challenges for regulators tasked with analyzing conversations to determine if they align to compliance and conduct mandates. For example, if producers display sensitive documents through web cams or screenshares, it can be difficult to determine the contents of those documents as legacy compliance systems typically ignored the risks of visual content. The potential risks lurking in the audio portions of collaboration sessions as well as in the chat or file transfers could be issues as well.

## PANDEMIC HAS MATERIALLY IMPACTED FIRMS' BUSINESS OPERATIONS RESULTING IN A DISTRIBUTED WORKFORCE

Historically, the analysis of video and collaboration data posed problems for supervisors looking to find evidence of potential issues. However, with the advancement of AI, including computer vision technologies, it is now possible to sift through hours of video and collaboration data to identify relevant conversations. Sophisticated machine learning and natural language processing techniques facilitate more meaningful analysis of communications to highlight industry-specific interactions. Properly trained and designed AI can flag conversations relevant to life insurance, annuities, or car insurance and distinguish conversations about policies as they pertain to health or life insurance from more remote discussions about vacation or dress code policies. AI can also be used to examine visual content to recognize firm logos, policy documents, and inappropriate content like weapons that appear in collaboration and video content.

AI has the ability to detect concepts in collaboration and voice recording data making it more powerful than legacy technologies developed to simply match keywords in channels like email and instant messaging, or within call transcripts. AI can assist regulators in identifying discussions where suitability is at issue, or where risky behavior is occurring. As another example, AI can facilitate regulatory reviews of large amounts of call center data to vet producer activity and uncover non-compliant investment recommendations. As situations arise where particular insurance products or firm behavior is at issue, flexible and robust AI technologies can be trained to surface bespoke risks and further reduce the administrative overhead

of culling through audio recordings to locate instances of problematic behavior.

It should be noted that the pandemic has materially impacted firms' business operations resulting in a distributed workforce relying on a variety of communication tools used for interactions with customers, prospects, regulators, and internal colleagues. In fact, collaboration applications may augment or replace traditional call center operations as platforms like Zoom and Microsoft Teams are more widely adopted. For regulators, these changing business operations will necessitate the deployment of modern tools for oversight and supervision that allow for efficient and effective review, search, and escalation of collaboration conversations.

The breadth of AI's capabilities also extends to the analysis of marketing and advertising information whether in the form of PDF or PowerPoint documents, or in corporate or individualized sales videos posted to firm websites and social media platforms. Regulators can use AI to examine advertising information to determine if product or firm-specific disclaimers have been shown, spoken, or shared during a collaboration or voice conversation, as well as analyze videos and static documents. Moreover, regulators can compare approved marketing scripts against audio or video advertisements to validate that firms, producers, or others licensed to sell insurance products have adhered to pre-vetted content. Historical processes rooted in manual reviews of each piece of marketing material can be significantly improved by leveraging AI to assist in the identification of potential non-compliance across video, audio, and text-based advertisements.

Given the breadth of AI-enabled tools that can be used for identifying risks inside of emerging modes of communication, supplemental tools like robotic process automation ("RPA") offer regulators additional flexibility to rethink manual processes. RPA tools can be used to power chat bots to intelligently interact with internal and external stakeholders and answer routine questions about regulatory or investigatory protocols. RPA can help regulators automate repetitive tasks to allow examination or investigations teams to focus on interacting with member firms and performing in-depth reviews of data.

The scope of coverage and potential applicability of AI to regulatory problem sets is promising. Deployment of AI by regulators requires careful consideration of the types of processes that might involve significant manual efforts or could be improved by the continuous and consistent application of a standard set of risk classifications. The use cases defined in this article—collaboration and communication reviews as well as the analysis of advertising and marketing materials—are natural starting points given that they typically constitute the most pressing and time consuming aspects of day-to-day regulatory operations. It's likely that we'll see regulators' use of AI continue to grow as its applicability to emerging insurance regulatory concerns evolves. ■

### ABOUT THE AUTHOR:

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## CDS 2020 Recap

What a roller coaster we have all been on this year. Midway through the 2019 Career Development Seminar (CDS), in Spokane, I was asked if after ten years of participation, I was ready to take a more active role in the Insurance Regulatory Examiners Society (IRES). I accepted the challenge with no idea what I was getting myself into. Working with Chair Shelly Shuman, at the time the IRES Vice President, and now President-elect, along with co-Chair Barry Wells who chaired CDS for the past several years we moved into planning a 2020 CDS much like years past. Fast forward to March when the world was turned upside down by COVID-19 including our planning for CDS 2020 with the realization that an onsite meeting would not be possible. We began to evaluate options, which included the possibility of offering a virtual format. With significant help from Jo LeDuc, we identified a platform that could accommodate a virtual CDS.

Although we recognized that this year's CDS would be quite different and we would not have the opportunity to run into old friends and make new ones in the halls, the Chairs and the CDS Committee overall were enthusiastic about creating a unique virtual experience for our members. For example, in attending previous CDSs it was at times a struggle to decide between two sessions happening at the same time. With the virtual platform, we were able to record all sessions live and now they will be available to all registered attendees for the next year! No need to be in two places at once or rush from session to session.

Our goal was to attempt to maintain as many of the onsite CDS activities as possible in the virtual environment. A good example of this was the official opening of CDS and the recognition of new designees. With CDS Chair Shelly Shuman moderating, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration Chlora Lindley-Myers, as well as IRES President Randy Helder welcomed us to the Conference. Mary Nugent the Chair of the Accreditation and Ethics Committee recognized new designees for their accomplishments, and while those new designees couldn't hear the audience applause, we all congratulate them on their efforts.

Before sending everyone off to their sessions, understanding just how unique the virtual conference platform would be, Jo LeDuc walked attendees through how to get to sessions and get credit for doing it, how to utilize all of the special features the conference offered, and discussed some networking options to meet up with old contacts and new.

State's insurance departments have always supported IRES in many ways, including sharing their knowledge and encouraging and sending their regulators, to teach and learn. While most conferences welcome many Commissioners, this year to secure a similar level of representation we had to think inside the box (our monitors). We achieved this by inviting states to provide video messages and share their state's activity and issues. Many accepted the opportunity and shared their states activity related to COVID-19 and emergency bulletins and orders to assist their insureds and department staff. The video clips were a real success and we thank each of the Commissioners who shared their time and information.

IRES has always received significant support from sponsors, which enhances CDS and allows members to focus on learning, communing, and meeting new friends. This year, although the venue was changed our sponsors remained and in fact the number of sponsors increased. We wish to thank each sponsor for their invaluable support.

The Financial track kicked off with a discussion about the global financial system including international Insurance regulation, the NAIC's role in macroprudential monitoring, and the Bilateral Agreement between the US and the EU. Next up was Reliance on Third Party Controls, System & Organization Controls (SOC) reports. The third financial session covered data security, related model laws, and Exhibit C. The track ended with updates to the Financial Condition Examiners Handbook.

The Market Regulation track walked us through the market conduct examination lifecycle by discussing how regulators utilize analysis at the state level, MCAS, NAIC tools, and the continuum to regulate their state's insurers prior to, or at times instead of an examination. Then how states determine an examination schedule, or identify entities in need of review, followed by how regulators use available tools and considerations for remote examinations. The track concluded with a presentation on collaboration among states and how to finalize an examination.



**Sheri Marston**



**Barry Wells**



## CDS 2020 Recap (continued)

Life and Annuity shared information related to auditing algorithms and avoiding bias in data analysis. Changes to the industry pre and post COVID-19 related to distribution, TPAs, and social media were discussed. A session on fraud (always interesting) shared information related to COVID-19 scams related to CDC and IRS imposters soliciting information or funds in stimulus check schemes. They wrapped up with a legislative update.

Property and Casualty opened with climate change and catastrophe modeling which is an ever increasing issue today. They discussed per mile insurance; what is it, how it works compared to traditional auto insurance, and privacy and market conduct considerations. Related, but separate from climate change, was a presentation on the National Flood Insurance Program flood zones, increasing hurricanes, and the growth of private insurance. They closed out with a presentation on travel insurance, the recent multistate actions, and a discussion of the potential need for more regulation for this complicated product.

Health's track began with the elephant in the room, COVID-19 and the Federal and state response. Those included new coverage requirements, reimbursement requirements, telehealth, extended enrollment periods, and premium flexibility and relief. Tuesday and Wednesday were part one and two on pharmacy benefits. Part one talked about supply chain issues and customized medication. The second session was all about pharmacy benefit managers (PBM). Health ended with an update of NAIC (B) Committee activity including The Mental Health Parity and Addiction Equity Act, Pharmacy Benefit Managers, Regulatory Issues and Employee Retirement Income Security Act regulatory action. Health Innovations - Telehealth changes will be made permanent not just during COVID-19.

Finally, the Information Technology track provided a demonstration of a compliance platforms capabilities, gave an update of the latest TeamMate® updates, and then gave a deep dive into Audit Command Language, with examples of auditing claims processing by member, claims payments, and days to pay testing. Their final session discussed an issue that could not be more of the minute in national news; data security oversight and cybersecurity issues at the state and federal level.

One of the most invaluable parts of CDS each year is connecting and reconnecting with fellow members by sharing a laugh, a meal or perhaps a cocktail. We weren't able to meet with members in person, however there was no shortage of ways to virtually connect with old and new friends. Small group themed sessions like film club, and game nights, gave directed opportunities for conversation and laughter. While the Pub and Club Crawls and Water Cooler Hangouts were places to connect with no preset goals or expectations.

In closing, while we missed being able to reach out and shake your hand, and although challenging, we believe and hope you agree the virtual conference was an invaluable learning experience. Feedback from attendees and committee members has been positive and although we are all hoping for a return to onsite meetings in 2021, we know we have a proven workable solution as a backup should the need reoccur again.

We welcome all comments and suggestions for how to make improvements to your CDS. Is there a topic you would like to see covered? Have you heard a dynamic speaker on a topic that you want to share? Please provide any suggestions to [info@go-ires.org](mailto:info@go-ires.org). ■

**CDS2020** Premium Flexibility and Relief

- Prepayment of 2019 MLR rebates
- Extension of QHP payment deadlines and grace periods
- Temporary 2020 premium reductions

**CDS2020** Response overview

- The Maryland Insurance Administration has issued 20 industry Bulletins in response to COVID-19, eight of which are focused on health insurance.
- The Administration has released 21 COVID-19-related FAQs, Consumer Advisories and Press Releases.
- The Administration has held eight conference calls with health insurers and three coronavirus-related webinars for licensed professionals.

**CDS2020** Changes to the licensing of life and annuity products since COVID-19

- **Producer Licensing**
  - 47 states have issued licensing-related bulletins and/or info
  - Temporary licenses
  - Closure of in-person exams
  - CE extensions
  - Waiving of late fees
- **Company filings**
  - Life – companies filing supplemental forms asking UW questions about COVID-19

**CDS2020** Creative Underwriting

- **Social Media**
  - New York Circular Letter 1 (2019)
  - Applications that query social media
    - Python
    - Beautiful Soup
    - Pandas

**CDS2020** Exhibit C – The Basic Basis (continued)

- Inherent risk – “it is what it is”, unmitigated, “in the wild”
- Inherent risks are dependent on the Company, however they are mostly consistent
- Levels of testing/assessment (not universal)
  - Low – Documentation Review
  - Medium – “Test of One”/Walkthrough
  - High – Detailed testing

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# Zoning In



**Kathy Donovan**

## NORTHEAST ZONE

### Connecticut

Bulletin MC-24, dated Aug. 31, 2020, replaces Bulletin No. MC-20 and sets forth the requirements for the annual reporting to the Insurance Department for Mental Health and Substance Use Benefits in accordance with 38a-477ee. The Bulletin directs that “beginning on March 15, 2021 and annually on or before March 15 of each subsequent year thereafter,

each insurance company, fraternal benefit society, association, and health care center that delivers or issues individual and group health insurance policies in Connecticut must review its practices and procedures for compliance with state and federal mental health parity requirements and report its compliance status by completing the annual Mental Health and Substance Use Benefits compliance report in a form substantially similar as the one attached” (note: the Bulletin includes a link to the “Benefits Compliance Report – Exhibit A.) Additionally, applicable entities must submit a certification to the Department signed by an officer of the company and the chief medical officer that states that the health plan has completed a comprehensive review of the company’s practices for the prior calendar year. The report will be considered incomplete if the certification is not included.

### Maryland

Issued September 17, 2020, Bulletin 20-38 encourages all private passenger automobile insurers to review “their most recent data including frequency of accident reports and miles driven captured by telematics programs or other sources, to ascertain if it is appropriate at this time to provide additional immediate premium relief to Maryland policyholders.” This Bulletin follows the previous Bulletin 20-12 which had also encouraged insurers to provide similar rate relief. Bulletin 20-38 indicates that insurers choosing to provide immediate, temporary relief should submit a rate/rule filing in SERFF on or before Nov. 1, 2020. In addition, the Administration “expects insurers to analyze current market conditions, project future loss costs and make a rate filing on or before January 1, 2021 to incorporate post-COVID-19 onset data. Information concerning filing fee applicability is also included in this Bulletin.

### New Hampshire

HB 1245, effective July 29, 2020, revised § 412:35 which addresses auditable basis policies, including situations where there are bona fide disputes. The revised statute, which also requires notifications to the insured, now includes the following specific consequence of the insured’s failure to cooperate, including delay in the completion of the audit.

412:35 IV(b): The consequence of the insured’s failure to cooperate with this paragraph within 30 days of the notice

shall be the assessment of a penalty equaling 3 times the estimated premium and setting the estimated premium as the final premium. Upon receipt of the penalty and final premium, the insured shall have an additional 10 days to request that the penalty be waived and to have the final premium be recalculated based upon actual exposure by completing the audit that is required by paragraph III. No timely request by an insured for a waiver and recalculation shall be denied by the insurer. The request shall be granted upon completion of the audit.

## SOUTHEAST ZONE

### Virginia

Administrative Letter 2020-06 addresses “Property Damage Liability Claims Involving Clean-Up, Removal of Vehicles and Debris from Roadways and Property Adjacent to Roadways.” This Letter reminds insurers that the “at-fault insurer is responsible for payment of the reasonable costs of clean-up, recovery, and certain towing expenses under the terms of the property damage liability coverage of the motor vehicle policy that requires coverage for “all damages the insured is legally obligated to pay” and also provides other guidance applicable to motor vehicle claims.

## MIDWEST ZONE

### Illinois

50 Ill. Adm. Code 2001.13, adopted effective Aug. 28, 2020, sets forth new corporate name requirements for individual and group health insurance policies. These requirements mandate that: “The name of the actual health insurance issuer shall be stated on all of its forms. Policy forms or other items incorporated by reference shall not use a trade name, any insurance group designation, name of the parent company of the issuer, name of a particular division of the issuer, service mark, slogan, symbol or other device that, without disclosing the name of the actual issuer, would have the capacity and tendency to mislead or deceive as to the true identity of the issuer.” Additionally,

- There must be printed at the head of the policy the name of the issuer or issuers issuing the policy and the location of the home office of the issuer or issuers. Devices, emblems or designs, and dates as are appropriate for the issuer issuing the policy may also be added.
- The complete issuer name, as registered with the Department, shall appear in the footer on all forms filed with the Department.

## Zoning In *(continued)*

### Nebraska

LB 774, effective Nov. 14, 2020, enacts a new statutory section prohibiting certain acts by health insurers and network providers.

- A facility shall not advertise or hold itself out as a network provider, including any statement that the facility takes or accepts any health insurer, unless the facility is a network provider of the health insurer. A facility that advertises itself as a network provider of a health insurer shall provide a clarifying statement if the facility is not a network provider for all insurance products offered by the health insurer.
- Any contract entered into between a facility and a person covered by a health insurer is voidable at the option of the covered person if the facility violates this section.

### WESTERN ZONE

#### Colorado

The Division of Insurance reissued its Bulletin No. B-5.38 on Sept. 17, 2020. Originally issued on Mar. 27, 2020, the Bulletin sets forth the Division's directive to "all insurance companies issuing coverage to personal and commercial policyholders to make reasonable accommodations to prevent individuals and businesses from losing coverage due to cancellation for the non-payment of premium if the insured contacts the insurer regarding any financial hardship resulting from COVID-19 requesting a reasonable accommodation before the date the policy is set to expire or cancel." The Bulletin further indicates that reasonable accommodations should include, but not be limited to: (1) Suspension of non-payment cancellations; (2) Payment options to pay overdue premiums; and (3) Waiver of late payment or reinstatement fees. Additional information is provided to insurers addressing the offering of flexible payment arrangements to policyholders and certain prohibited adverse actions for insureds who have entered into such arrangements. Provisions for insured-requested coverage discontinuance in situations of nonpayment due to financial hardship as a result of COVID-19, absent a payment arrangement, are also included. Regarding new personal lines policies, insurers are not permitted to surcharge for a lapse in coverage if the applicant can demonstrate the lapse in coverage was because of a financial hardship due to COVID-19.

### Oregon

A Wildfire Emergency Order and Bulletin No. DFR 2020-16 were both issued on Sept. 18, 2020. The Order, effective on that date, is in force through Oct. 17, 2020 or later if the Director extends the Order. Bulletin No. DFR 2020-16 identifies the "Affected Areas Subject to the Wildfire Emergency Order." Under the Order, all insurers must immediately take the following actions regarding reporting of claims and other communications regarding claims with insureds in the Affected Areas subject to this Order:

- Extend all deadlines for policyholders to report claims or submit other communications related to claims. Deadlines that must be waived include, but are not limited to, deadlines to submit initial claims or to respond to communications related to claims payment and processing, grievances and appeals, or utilization review requirements.
- Take all practicable steps to provide opportunities for insureds to report claims or provide required communications related to claims considering any potential limitations for an insured's access to communication tools due to wildfires.

Regarding premium payments, insurers must immediately institute a grace period for premium payment for all insurance policies issued, delivered, or covering a risk in the affected areas subject to this Order. Such grace period cannot end earlier than the date the Order is no longer in effect. Insurers are also directed to immediately take specific actions, detailed in the Order, regarding cancellations and nonrenewals for all active insurance policies issued, delivered, or covering a risk in the Affected Areas.

### Texas

Bulletin B-0036-20, issued Sept. 4, 2020, addresses insurers' use of third-party data. Serving as a reminder to the industry, this Bulletin outlines the responsibilities for the "accuracy of the data used in rating, underwriting, and claims handling – even if the data is provided by a third party" and encourages insurers to provide policyholders with a way to review and correct data being used by the insurer. ■

### ABOUT THE AUTHOR:

**Kathy Donovan** is Senior Compliance Counsel, Insurance with Wolters Kluwer Financial Services. Kathy has more than two decades of experience in insurance compliance. Her expert commentary on legal and regulatory issues affecting the insurance industry is widely published and she is a regular presenter at various industry events.

## NAIC D Committee Update

### Market Regulation and Consumer Affairs (D) Committee, September 15, 2020

While 2020 has been a challenging year with many of the Market Regulation and Consumer (D) Committee efforts put on hold in March, there has been some significant activity with the NAIC virtual Summer National Meeting in August. As regulators and industry have become accustomed to remote work and many regulatory issues surrounding COVID-19 have been addressed, NAIC Committees, Task Forces, and Working Groups are again focusing on 2020 charges. This article provides a brief update on some of the most recent activities.

### Market Conduct Annual Statement

Due to the uncertainty created by COVID-19 in March, state insurance regulators granted a filing extension of 60 days for all Market Conduct Annual Statement (MCAS) data. Except for Health and Disability Income, which had a filing deadline of Aug. 31, all other MCAS lines had a filing deadline of June 30. As of September 15, 2020, states have received the following number of MCAS filings by line of business: (1) Annuity: 5,702 - 99.70% complete; (2) Disability Income: 2,899 - 87.74% complete; (3) Health: 721 - 90.13% complete; (4) Homeowners: 5,111 - 95.55% complete; (5) Lender-Placed Insurance: 645 - 94.38% complete; (6) Life: 10,679 - 99.80% complete; (7) Long-Term Care: 2,869 - 99.86% complete; and (8) Private Passenger Auto: 5,389 - 98.99% complete.

In addition to work for the current year filings, the Market Regulation and Consumer Affairs (D) Committee adopted edits to existing MCAS line of business, which will impact the collection of 2021 data in 2022. Among these edits, an interrogatory was added to the Life and Annuity data calls to identify TPAs used by a company along with their function and two data elements that relate to policy surrenders were added. Similarly, for the Homeowners and Private Passenger Auto data calls, an interrogatory was added to identify both MGAs and TPAs used by a company. In addition, for Private Passenger Auto, an interrogatory was added to identify the use of telematics or usage-based data and a data element was added for claims closed without payment because the amount claimed was below the insured's deductible.

Another important development is the pending collection of 2020 Private Flood data in 2021. This will be the first year this data is collected. As part the implementation of this new MCAS line of business, the Market Analysis Procedures (D) Working Group adopted new scorecard ratios for Private Flood Insurance. Finally, the Market Conduct Annual Statement Blanks (D) Working Group continues to develop an "Other Health" MCAS blank as well as the Travel Insurance MCAS blank.

### New Format for the Market Regulation Handbook

Due to the work-from-home and social distancing requirements caused by COVID-19, the NAIC suspended shipment of publications. To address the ongoing demand for NAIC publications, including the NAIC Market Regulation Handbook, the NAIC transitioned to the delivery of the Handbook as a digital-only publication via an online subscription service to Bookshelf. Similar to an e-reader, Bookshelf allows users to add personal notes, highlight text, hear an audio version of the text, search content, and print.

Regarding new content for the Handbook, the Market Regulation and Consumer Affairs (D) Committee recently adopted standardized data requests for Farmowners Policies, Farmowners Claims, Inland Marine Policies, and Inland Marine Claims. These data requests may be used by a state to determine if a company follows appropriate procedures with respect to the issuance or termination of Farmowners and Inland Marine policies and the processing of Farmowners and Inland Marine claims. The Market Regulation and Consumer Affairs (D) Committee also adopted a Limited Long-Term Care Examination Standards Chapter. The new examiner guidance is based on the NAIC's Limited Long-Term Care Insurance Model Act (#642) and the Limited Long-Term Care Insurance Model Regulation (#643). Modifications to the Handbook will be uploaded to Bookshelf as they become available after adoption by the NAIC Membership.

### Producer Licensing

Producer licensing was significantly impacted by COVID-19 as examination centers were closed earlier in the year. Through direction of the Producer Licensing (D) Task Force, the NAIC worked with the National Insurance Producer Registry (NIPR) on recommended best practices and template bulletin for the implementation of a temporary license for insurance producers. Recognizing the need for a long-term solution to provide safe and secure access to producer examinations for new applicants, state insurance regulators have turned their focus toward implementing remote, proctored examinations. As for September 15, there are 21 jurisdictions that offer remote examinations and additional jurisdictions continue to explore the implementation of remote exams in the fourth quarter of 2020. The most up-to-date information on state insurance department bulletins and implementation of remote examinations can be found on the NIPR COVID-19 Resource Center on the NIPR home page at <https://nipr.com/>.

Another enhancement to producer licensing is the NAIC Membership's adoption of a revised Continuing Education Reciprocity Agreement (CER Agreement). This Agreement supports the use of the Uniform Continuing Education Reciprocity Course Filing Form, which CE providers and states use to streamline the approval of CE courses in multiple states. Through the reciprocal approval process,



Tim Mullen



## NAIC D Committee Update *(continued)*

a CE provider's home state conducts a substantive review of a CE course, which eliminates the need for a non-resident state to perform a similar course review. The NAIC's Uniform Education (D) Working Group will begin tracking state implementation of the Agreement through 2020.

### Independent Adjuster Licensing

The licensing of independent adjusters remains a priority issue for the Producer Licensing (D) Task Force and additional discussion is expected through the remainder of 2020. Thirty-seven jurisdictions license independent adjusters and the NAIC Members have adopted key work products to enhance licensing uniformity and reciprocity. These products include the adoption of the Independent Adjuster Licensing Guideline in 2008, the Independent Adjuster Reciprocity Best Practices and Guidelines in 2011 and the Emergency Independent Adjuster Best Practices and Guideline in 2014.

While significant policy work has been completed, representatives of the Association of Claims Professionals (ACP) have expressed concerns regarding state implementation of the policy direction set forth in these NAIC work products. The ACP is seeking an improved licensing process with all states using a uniform licensing application, states implementing a uniform licensing renewal timeframe and process, and states requiring only a "home state" examination and compliance with a "home state" continuing education requirements. The ACP is also suggesting states eliminate the licensing of independent adjusters by line of authority and is seeking consistent application of the "Designated Home State." In summary, an independent adjuster may designate another state as his/her "home state" if the state in which he/she resides does not license independent adjusters.

### Privacy Protections

While the activities of the Privacy Protections (D) Working Group were placed on hold due to COVID-19, this Working Group is restarting its efforts by focusing on the NAIC's Privacy of Consumer Financial and Health Information Regulation (#672). The Working Group is identifying potential gaps in privacy consumer protections by reviewing specific privacy requirements insurance licensees must already follow. This includes a review of the Health Insurance Portability Accessibility Act (HIPAA), the California Consumer Privacy Act (CCPA), the European Union's General Data Protection Regulation (GDPR), and the NAIC's Insurance Information and Privacy Protection Model Act (#670).

### Special Committee on Race and Insurance

A very important development is the NAIC Members formation of a Special Committee on Race and Insurance, which may impact market conduct professionals as the Committee's recommendations are developed. This committee has four workstreams. The first is to conduct research and analyze the level of diversity and inclusion within the insurance sector. The Committee is also charged to engage with a broad group of stakeholders on issues related to race, diversity, and inclusion in the insurance sector and access to insurance products. The third charge of the Committee is to examine and determine which current practices or barriers exist in the insurance sector that potentially disadvantage minorities. Finally, the Committee is charged to make recommendations to the NAIC Executive Committee and membership by the end of 2020 regarding actions both insurance regulators and the insurance industry can take to increase diversity and inclusion and steps that should be taken to address practices which potentially disadvantage minorities. As part of this process, the Committee will also outline steps to ensure ongoing engagement of the NAIC on these issues through charges of its committees, task forces and working groups.

### Principles on Artificial Intelligence

While not under the purview of the Market Regulation and Consumer Affairs (D) Committee, the NAIC's recently adopted Principles on Artificial Intelligence (AI) touch on market conduct concepts. As noted in the adopted document, the principles are guidance to inform and establish general expectations for AI actors. The principles emphasize the importance of AI actors being fair and ethical, accountable, in compliance with existing laws, transparent, and maintaining safe and secure systems. As the use of data and AI expand, market conduct regulators will be called upon to explain the impact on consumers and ensure these practices comply with existing state laws and regulations.

### NAIC Consumer Liaison Program

The NAIC's Consumer Liaison Program is another initiative that touches market conduct issues. The application process to become a consumer representative for 2021 was opened on Sept. 1, 2020 and runs through Oct. 31, 2020. Established in 1992, the Consumer Liaison Program promotes consumer representation and interaction with the NAIC members by providing a way for individuals who are qualified consumer representatives of consumer organizations to participate in NAIC meetings. One option for individuals to participate in the Consumer Liaison Program is for the NAIC to provide funding in the form of travel expense reimbursement. Individuals who do not need funding or do not qualify under the guidelines of the Consumer Liaison Program may apply to participate



## NAIC D Committee Update *(continued)*

in the Program as an unfunded consumer representative. Applicants will be selected in December and notified prior to the Spring National Meeting in 2021. More information about this Program and the application process may be found at [http://www.naic.org/consumer\\_participation.htm](http://www.naic.org/consumer_participation.htm).

### NAIC Resource Center for COVID-19

While many workstreams are receiving additional focus during the third and fourth quarter of 2020, the NAIC Members continue to keep the regulatory response to COVID-19 a priority. For anyone wanting more information on the NAIC and state insurance departments' responses to COVID-19, please visit the NAIC's Coronavirus Resource Center at [https://content.naic.org/naic\\_coronavirus\\_info.htm](https://content.naic.org/naic_coronavirus_info.htm). This Resource Center includes a comprehensive list of state bulletins, NAIC resources, assistance on insurance coverage issues, and critical information for consumers on how to avoid COVID-19 scams and fraud.

For anyone wanting additional information about the activities of the Market Regulation and Consumer Affairs (D) Committee, its Task Forces, and Working Groups, please visit the following Web link on the NAIC Website: [https://content.naic.org/index\\_committees.htm](https://content.naic.org/index_committees.htm)

### ABOUT THE AUTHOR:

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### **What all Examiners should know about Cybersecurity**

Please join us for a Webinar that offers opportunities to learn, expand your horizons, and to earn continuing education credits.

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**MODERATED:** Roshi Fekrat

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Learn More about Upcoming Webinars

Keep an eye out for updates with details in your email and on the [IRES website](#).

# Education Corner

Continuing our series of articles about the National IRES Continuing Education (NICE) Program, this issue, we cover what qualifies for CE credit and how to determine how much credit has been earned. The final article in this series will appear in the next issue of The Regulator. It will cover how to avoid common submission mistakes and how to read your CE transcript on the IRES website.

## What qualifies as Continuing Education for NICE?

To ensure that members subject to the NICE program have ample opportunities to earn the necessary continuing education (CE) credit, the program was designed to allow maximum flexibility. However, this flexibility associated with the types of educational events that qualify for CE credit can introduce ambiguity and uncertainty about what educational events qualify for CE credit under the NICE program.

An educational event is an event for which you seek CE credit. It could be a course, conference, self-study course, seminar, webinar, presentation, or other type of event. Each educational event is judged on its own merits. The contents of the event along with the method of delivery are taken into consideration when determining if it qualifies for CE credit under the NICE program.

The first step is to determine if the educational event meets the '50% insurance rule'. The 50% insurance rule requires that the content of the event be more than 50% directly and substantively insurance related. If the content of the event does not meet this requirement and does not qualify for an exception (see below), it does not qualify for CE credit under the NICE program.

For many educational events, it is relatively easy to make this determination. This is because the content of the course is clearly expressed in the course title. Sessions on annuity suitability, title insurance, the impact of peer to peer car sharing on insurance, Medicare Supplement, or NAIC risk focused analysis framework are a few examples where it is easy to determine that the event meets the 50% insurance rule. However, it is not this easy for all educational events.

An excellent approach for determining if an education event qualifies for CE credit under the NICE program is to look past the event title and focus on the event's description/agenda. For example, a general course on 'Sexual Harassment in the Workplace', would not qualify for CE credit because the topic would not meet the 50% insurance rule. However, the if actual course content focused on managing sexual harassment exposures and how to effectively handle harassment insurance claims, it would qualify for CE credit.

If the educational event meets the 50% insurance rule, the next step is to look at the delivery method of the event. While most events that meet the 50% insurance rule qualify for CE credit, there are some instances where the event may not qualify due to the mechanics of the event itself. Below is a quick reference guide to help you determine if the event qualifies for CE credit based on the method of delivery.



Jo LeDuc

Delivery Method	Credit is granted if:
<b>Seminars &amp; Conferences</b>	a certificate of attendance (or other proof of attendance) is available.
<b>IRES State Chapter Meetings</b>	the meeting provided insurance related educational content (i.e. non-business meetings) and a certificate of attendance or other proof of attendance is available.
<b>College &amp; University Courses</b>	offered by an accredited college or university and proof that the course was passed is available.
<b>Producer Licensing Continuing Education Courses</b>	the course is approved by the State Department of Insurance as producer CE and a certificate of attendance or other documentation verifying successful completion of the course is available.
<b>Webinars</b>	preregistered for and participated in a live webinar and a certificate of attendance or other documentation verifying attendance is available.
<b>Online Courses</b>	a certificate of completion or other documentation verifying proof of attendance is available.

## Education Corner *(continued)*

Delivery Method	Credit is granted if:
<b>Correspondence/Self-study Courses</b>	it is offered by accredited colleges, universities, and national sponsors and a certificate is available or post-assessment test indicating successful completion of a course
<b>Reading Correspondence Journals</b>	offered through professional organizations that have a testing component associated with the reading and proof of successfully completing the testing component is available.
<b>In-House Programs</b>	if a certificate of attendance or other documentation verifying attendance is available.
<b>Local Insurance Group Meetings</b>	insurance related continuing education was presented (i.e. non-business meetings) and a certificate of attendance or other documentation verifying attendance is available.
<b>NAIC National Meetings</b>	documentation of attendance, including the individual meetings attended is available.
<b>Published Articles</b>	the article was published by professional insurance magazine, journal, or industry newsletter and is at least 500 words.
<b>Speeches/Presentations</b>	done as the sole presenter or a member of a panel; however, panel participation must be at least 50 minutes.
<b>IRES Committee &amp; Subcommittee Work</b>	an active participant in the committee or subcommittee.

There are also two important exceptions to the 50% insurance rule. The following educational events do not need to meet the 50% insurance rule:

Course Content	Credit is granted if:
<b>Information Technology Courses</b>	it relates to the work of the regulator (i.e. Teammate, ACL, word processing, spreadsheet programs, etc.).
<b>Cybersecurity Courses</b>	if the course focuses on topics such as cyber IT governance, IT controls and other topics such as the handling of privileged and confidential information including its collection, transmission, maintenance, and storage.

### How much credit?

The amount of CE credit that is earned depends the type of continuing education event, how long the event lasts, and whether any credit level caps under the NICE Program Manual apply.

CE credit is calculated based on the amount of instructional contact time for the event or in accordance with a pre-determined schedule.

CE credit for participation in organized continuing education events such as college & university courses, seminars, conferences, state approved producer licensing continuing education courses, online courses, and webinars, is determined by the amount of instructional contact for the event. CE credit for these types of events is based on a 50-minute contact hour. That means when the event has 50 minutes of instructional contact, 1 CE credit is granted. A 25-minute educational event would earn ½ of a CE credit.

CE credit for speaking engagements and presentations is available. When presenting alone, credit is granted for twice the actual instructional contact hours. When participating in a presentation as a panel member, credit is granted for one and a half times the actual instructional contact hours. For example, a 50-minute speaking engagement as a solo presenter would equal 2 CE credits. A 50-minute engagement as a panel member would equal 1.5 CE credits.

## Education Corner *(continued)*

However, the amount of credit IRES grants for any one educational event (regardless of the actual amount of instructional contact) is the smaller of the actual number of credits earned or 12 credits, with the following exceptions:

- IRES Career Development Seminar
- IRES Foundation Market Regulation School
- IRES MCM® Program
- SOFE Career Development Seminar

For each of the items listed above, IRES grants the actual number of CE credits earned or 15 CE credits, whichever is smaller.

The following additional caps also apply:

- **IT Courses:** A cap of 5 CE credits in total per compliance period applies to qualifying IT courses. However, this cap does not apply if the IT course concentrates over 50% of the content on insurance specific applications such as TeamMate or ACL.
- **Cybersecurity Courses:** CE credit for cybersecurity is limited to a maximum of 3 CE credits per compliance period.
- **Correspondence Journals:** A maximum of 4 CE credits (per organization) for qualifying reading correspondence journals through professional organizations can be earned each compliance period.
- **Reachback Credits:** A maximum of 6 excess CE credits from the immediately prior compliance period may be used in the current compliance period.
- **IRES Committee & Subcommittee Work:** A maximum of 3 CE credits can be earned for IRES Committee & Subcommittee work each compliance period, regardless of the number of Committees/Subcommittee for which credit may be due.

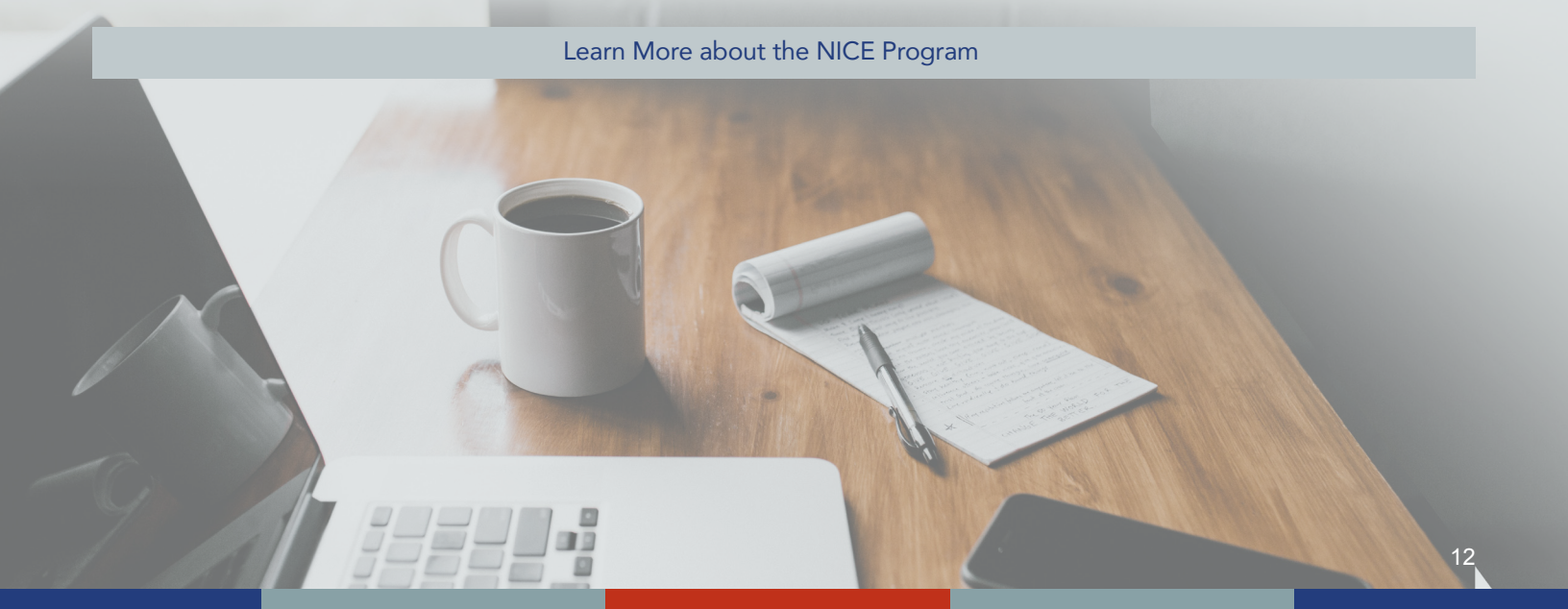
CE credit for published articles and IRES Committee work is based on the following pre-determined schedules:

- **Published Articles:** One credit is granted for each 500 words with a maximum of five credit hours for 2,500 words. No credit is granted for articles less than 500 words.
- **Committee & Subcommittee Work:** Credit will be based on the following schedule:

% of the Scheduled Meetings	Credit is granted if:
50%	1
75%	2
100%	3

For more detailed information about what qualifies for CE under the NICE Program and how much CE will be granted, please consult the [NICE Program Manual](#). If you have questions, please contact the IRES office. ■

[Learn More about the NICE Program](#)





## IRES Featured Member

### Ned Gaines, Chief Market Analyst

#### *Tell us about yourself.*

I've been married to my husband, David for 5.5 years but we've been together for almost 17 years. He is a pharmacist for a major grocery chain. We don't have any human children but we do have two very spoiled dogs; Dexter the beagle who's 10 and Morgan the terrier mix who's 19.

#### *Tell us about your involvement with IRES?*

I joined IRES in December 2013. What made you decide to join? Initially I joined because it was required for my position with the OIC. What roles at IRES have you held? For the past four years I've served on the CDS Planning Committee as Chair of the Property & Casualty Track in addition to being a CDS presenter.

#### *Tell us why you find involvement with IRES to be valuable.*

The real value of IRES comes from the connections you are able to make with other regulators.

#### *Do you have any wise words/tips for new IRES members or those that are new to insurance regulation?*

I recommend that new IRES members and those new to insurance regulation to get involved in IRES. It is a great way to establish yourself within the industry and to gain important contacts with whom you can tap for help when needed.

#### *When you are not working, what are your passions/hobbies?*

I am a collector of Day of the Dead art, especially sugar skulls. I grew up in Texas and was exposed to the Dia de los Muertes holiday through Mexican friends. I have large collection at home and keep a few pieces in my work office. This has turned the heads of a few co-workers who were not familiar with the holiday or the meaning behind the skulls.

I am a huge 1980s music fan, specifically the decade's new wave, punk rock and avant-garde music. I have a fairly extensive digital collection but over the past few years I've started collecting reissues of the era's classic albums on 180 gram vinyl. The sound quality is vastly superior to anything available as a download or even an original pressing. In addition to collecting music I am also an avid concert attendee, typically attending several shows a month during normal times.



**Ned Gaines**

Last year I took up motorcycle riding. This was something I always wanted to do but was too intimidated to try. So I did what any normal person would do, I bought a motorcycle even though I had no idea how to ride one. Luckily my plan didn't backfire and I didn't end up paying for something to just sit in my garage. I enjoy riding and have gotten much better over the last year at doing so. In these crazy times when so much of off-limits it is a nice reprieve and a good way to enjoy being outdoors.

#### *What do you see as your biggest accomplishment?*

My biggest accomplishment was going back to college to finish my degree. I entered college right out of high-school, but I dropped out after my first year. I intended on going back after a year or two but always found a reason not to. While I did well for myself, I eventually reached a point in my career where I wasn't going to move up without a degree. That was the impetus for me to get back in school at the age of 37. It was one of my better life decisions and gave me the drive to then continue on with earning my Masters. ■



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[Learn More about this Course](#)

# President's Remarks



**LeAnn Crow**

Hello IRES Members and Happy Fall!

Here in Kansas, we are having beautiful seasonal weather; however, I know this is not the case in many of our States, as our friends and neighbors are battling wildfires and preparing for hurricanes. Please know, we are keeping you in our thoughts.

I would like to introduce you to the Executive Committee for the upcoming year and the Committee they will chair.

- Mary Nugent, Accreditation & Ethics Committee Chair
- Tom McIntyre, Budget & Finance Committee Chair
- Sheri Marston, CDS Committee Chair
- Lisa Brandt, Education Committee Chair
- Pieter Williams, MCM/AMCM Committee Chair
- Kallie Somme, Meetings & Elections Committee Chair
- Shelly Schuman, Membership & Benefits Chair
- Randy Helder, Publications & Public Relations Committee Chair

I'm excited to work with these Committee Chairs to continue moving IRES forward.

As you know, we held our first virtual Career Development Seminar (CDS) in August, which was very successful. I would like to thank Shelly Schuman, Sheri Marston, Barry Wells and the entire CDS Committee who navigated this year's event. I also want to thank Jo LeDuc for all the "behind the scenes" work she did assisting the CDS Committee.

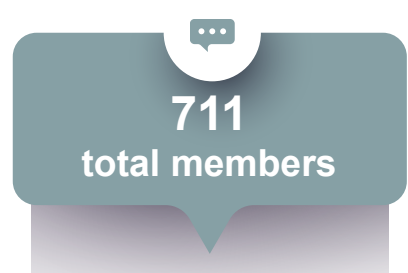
Right on the tail end of the CDS program, we held our first virtual MCM Program. We are pleased that we had over 60 participants that earned their MCM Designation. There are plans to hold another session in November, and those dates will be available soon. In addition to the MCM, we are looking forward to having our AMCM program up and running by the end of the second quarter of 2021. Please watch for announcements regarding this program.

As of this writing, many of our IRES Committees have not met since the CDS. I will have more updates from them by our next issue of the Regulator. And just a reminder, if you are interested in serving on one of the IRES Committees, please feel free to contact myself or the Committee Chair. WE would love to have you!

I do want to share that IRES Management has started a request for proposal (RFP) knowing that our current Association Management Company (AMC) contract with VPG will be expiring soon. We are early in the RFP process and I will provide more details by the next issue.

Please feel free to reach out to me if you have any questions or concerns for IRES. My email is: [LeAnn.Crow@ks.gov](mailto:LeAnn.Crow@ks.gov)

Finally, I believe this is the last Regulator issue of 2020, so I want to take a moment to wish you all a Happy and Healthy Holiday Season. It certainly has been a challenging 2020 and I think we can all agree that we wish for a calmer 2021. Take Care!



# Award winners

## Schrader Nelson Publication Award



**Michael Morrisey**  
*"Cloud Computing Risks 2020,"  
The Regulator Winter 2019*

## Chartrand Communications Award



**Martha Long**

## Al Greer Achievement Award



**Chlora Lindley-Myers**

## President's Award



**Shelly Schuman**



**Barry Wells**



**Sheri Marston**



## Executive Committee Award



**Jo LeDuc**

[Learn more about our Awards](#)



## CONGRATULATIONS TO OUR NEW MEMBERS

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