



SUMMARY OF OMAHA COMPACT ROUNDTABLE

Prepared by the Compact Office

On October 26th, Commissioners, regulators, consumer representatives, company and industry representatives, and NAIC and Compact Office staff gathered at the Magnolia Hotel in Omaha, Nebraska for a three-hour roundtable discussion.¹

Maryland Commissioner Kathleen Birrane, Chair of the Compact Commission welcomed attendees. She shared her perspectives on the value of the Compact for the states and industry. She said this session was an opportunity to share and listen to various perspectives on the Compact today and in the future. Commissioner Birrane asked the group to brainstorm on ways to work through deviations in order to bring products to market faster and still respect the need for state variations.

Commissioner McVey provided his perspective that the Compact is very important to his state in terms of uniformity, expertise and efficiency. For West Virginia, the Compact offers a high degree of comfort that products have gone through rigorous review and are compliant with robust standards.

Jason Lapham of the Colorado Division of Insurance and Chair of the Product Standards Committee (PSC) provided his perspective that the Compact brings together regulators, consumers and industry participants to develop and embrace standards. He shared his view of this collaboration that the PSC is where the sausage gets made through thoughtful deliberation and dialogue that results in full participation in all life and annuities Uniform Standards and high participation in LTC and DI standards.

Shawn Pollock of Mutual of Omaha Insurance Company indicated that its company relies upon the Compact for filing across available product lines. It appreciates the ease of working with the Compact team to prepare, submit and undergo a thorough review. He shared a story of how a department recently used the Compact filing process for the first time and now plans to make as many filings as eligible to the Compact.

During the Roundtable, three breakout sessions were held where participants discussed questions and use cases with attendees at their table and then shared their table's feedback with the whole group.

The first breakout session was to discuss topics about the current status of the Compact by discussing the following questions: 1) has the Insurance Compact fulfilled its intended purposes (uniformity, national standards, centralized review, consumer protection, speed-to-market) for your State or your company or

¹ The Compact Roundtable agenda and attendees are attached.

your members? 2) What does the Insurance Compact do well? What could be improved? 3) What are the most pressing priorities and challenges facing the Insurance Compact?

The groups all agreed the Compact has fulfilled its intended purposes and has delivered on excellent customer service, uniformity, efficiency and speed-to-market. Many commented on the importance of uniformity and consistency under the Compact framework. Standards are used by companies in product drafting and development. The Compact has successfully developed robust standards, with an appreciation for minimizing state-by-state differences and with many provisions equal or greater to the standards in states. The Compact has a transparent review process which helps provide a clear understanding of expectations. The knowledge and responsiveness of the reviewers was mentioned, and many appreciated the Compact approach to understanding all aspects of the product and engaging in dialogue with the company. Appreciation for the expedited review process was mentioned. The Compact expertise has helped states with tight budgets and limited staffing as the Compact staff has the capacity and depth to comprehensively review products for its member states. Consumers benefit from receiving new and better products faster and uniform across states after a thorough and expert regulatory review.

The groups identified challenges to maintaining and improving the ability of the Compact to achieve its purposes. One challenge was to keep Commissioners, state regulators and legislators informed and engaged on matters being discussed at the Compact. Some suggested more education at the Commissioner and legislator levels to help them understand the beneficial nature and role of the Compact. All agreed increased / better communication between the Compact Office, members and industry at all levels.

The pace of development and the flexibility of provisions within the Uniform Standards was frequently mentioned as areas for improvement. There was recognition that it takes time to develop standards and to work through state differences and minimizing “one-offs”. There was a suggestion for more open dialogue with the Product Standards Committee so the industry can engage with them during the drafting process rather than just providing written comments in response to draft language. Many commented the standards should provide for flexibility both in terms of being less prescriptive and allowing accommodations for conflicting state laws. Several agreed the goal should be to work with states to provide more flexibility for states to opt out of standards, fix underlying state conflicts, and accommodate the conflict in the Standard so that states do not leave the Compact due to conflicts with their state laws. Several agreed the standards should keep up with innovation. Other areas mentioned were working with remaining states to consider joining the Compact and working with South Carolina to rejoin. Several suggested expanding the scope of the product lines including AD&D, hospital indemnity and Medicare Supplement.

The second breakout session focused on what the Insurance Compact could look like in the future by discussing the following questions: 1) Are there other services or expertise the Insurance Compact could provide to member states and regulated entities? 2) Should there be ways, and what are they, to make the process to create or amend Uniform Standards more responsive to regulatory, market and technological changes? 3) What’s the next bold idea for the Insurance Compact?

Engagement among the regulators was emphasized as well as keeping legislators in the loop on the role and opportunities for collaboration and cooperation among the states through the Compact.

In terms of additional services and expertise, many suggested the Compact leverage its role as a vehicle for collaboration and cooperation between parties including facilitating innovation within and beyond the current Uniform Standards. Some suggested more flexibility in the Standards for insurance applications as well as expanded variability and expanded lines of business including supplemental health. Some mentioned that the flexibility in the current Uniform Standards is not being used citing the example of provisions that state, “other features approved by the Compact Office.”

Suggestions were made to better understand the problem of conflicting state standards perhaps through state surveys. Compact Office should reach out to states early and often to stay in touch with respect to statutory and regulatory changes. Could find ways through the Compact and its Uniform Standards to help maintain compliance when there are conflicting state requirements. Could expand ability for states to opt out when a state law changes and not just when a Uniform Standard is adopted or amended.

There was a comment that the five-year review process is too slow and not working. Certain standards should be looked at on a shorter cycle and input from the industry is important. Could ways be found to mitigate mix and match such as states choosing to accept / approve a product reviewed by the Compact on their behalf even if the Compact cannot approve it?

All agreed the Compact could provide advisory services. Many offered the idea of the Compact providing advisory services for products that currently do not have a Uniform Standard as well as other product lines such as Med Supp and LTC in-force rate increases. The Compact could serve as a place to address innovation using a voluntary, consensus-building approach. There was a discussion of whether states could opt in for Compact advisory reviews. Another idea was companies could request an advisory opinion on compliance to clarify what parts of the product are outside of the Uniform Standards such that one piece would go to the state for approval.

Some offered the Compact could serve as the mechanism for states to monitor usage of approved applications. Most liked the suggestion of hiring technology / data experts at the Compact to monitor how applications, including electronic applications and even gamification, and the corresponding products are intertwined. The Compact could assist states and industry in bringing uniformity to state business rules and compliance for direct marketing and e-commerce.

Some wondered if non-Compacting States could join for a limited set of Uniform Standards, such as application Uniform Standards, to see how the Compact works and its benefits for the state, regulated entities, consumers and state-based regulation

The final breakout discussion was to discuss two use cases one that involved an innovative product design not currently in scope of Uniform Standards and the other that complies with all the provisions of the Uniform Standard except with a provision regarding amount of premium or monthly deduction that must be waived under the Waiver standards.

With respect to the use case regarding the product that complied with most, but not all of the Uniform Standards, several ideas to address this situation were offered. At least two companies provided an example, respectively, of where the Compact Office has indicated the product does not comply with the Uniform Standard but when filed state-by-state, all states, including the largest non-Compacting States, approved. A suggestion was to use an appeal process to have the matter considered and voted on by a regulatory body and if allowed, have it memorialized in a ruling on the appeal. It was suggested it could be akin to the process for private letter rulings at the Internal Revenue Service. In this case, the group agreed it would be important to have a documented history of these appeal decisions.

Companies indicated that in the insurance departments, they have the ability to appeal decisions through a chain of management up to the Commissioner. There was discussion on how that could work at the Compact and whether to have a mechanism for states to provide feedback, especially on decisions of interpretation.

Some suggested more documentation on decisions made during the standards development. Suggestion was made for documentation of Compact decisions and to maintain a list for regulators of rejected filings. Develop a process to notify Commissioners of “No” answers so they may weigh in on the need for changes to the Uniform Standards or interpretation of the Uniform Standards.

With respect to the use case regarding the innovative product, the idea of a sandbox approach was raised with a process to communicate to Commissioners about innovative products. Some suggested a sandbox committee of Commissioners and regulators. Iowa offered its pilot program as a model where companies opt into the process, and it is done through SERFF.

The group outlined a tiered approach concept that the Compact could provide. Tier 1 would involve products within the Uniform Standards that are filed for review and approval by the Compact Office and eligible to use in the participating Compacting States. Tier 2 would involve products first filed with the Compact Office but not 100% compliant with the applicable Uniform Standard (use case #2 as an example) where the Compact Office would issue an advisory opinion how the product complies with the Uniform Standards such that the states would only approve, or perhaps, opt-in for Compact approval of the unique or non-conforming piece. Tier 3 would be for products outside the scope of the Uniform Standards, including the sandbox or innovated product approach, and would be provided as an advisory or adjunct value-added service for participating states and companies. Tier 2 and Tier 3 could include Commissioner-level committees to provide direction to the Compact Office on behalf of the Compacting States. The goal of Tier 3 would be to move up through the other tiers such that a Uniform Standard for the product was consider by the Commission.

Commissioner Birrane appreciated all the ideas and committed to driving this initiative forward.