# Testimony

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**Insurance Department of Pennsylvania**

*House Insurance Hearing on HB 1663 PN 1965*

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Pennsylvania
**Insurance Department**

Good morning, Chair Kim, Chair Pickett, and members of the Committee. My name is Michael Humphreys and I serve as Pennsylvania's Insurance Commissioner. I want to thank you for inviting the Pennsylvania Insurance Department ("PID" or "The Department") to offer remarks on the use of artificial intelligence (AI) in the insurance industry. Today, I am joined by Deputy Commissioner for Insurance Product Regulation Shannen Logue, who oversees the office responsible for reviewing and regulating accident and health, life, and property and casualty insurance products in Pennsylvania.

The insurance industry is constantly changing to adapt to new technological advances. Many insurers are undertaking digital transformations to incorporate emerging technology such as AI into their practices to provide consumers with innovative products and to provide improved consumer interfaces that promote efficiency and accuracy. AI is deployed across all stages of the insurance life cycle, including product development, marketing, sales and distribution, underwriting and pricing, policy servicing, claim management, and fraud detection. While the Department lauds technological advancements, the Department expects insurers to incorporate these advancements responsibly. Incorporating these technologies can present unique risks to consumers, including the potential for inaccuracy, unfair discrimination, data vulnerability, and lack of transparency.

As a member of the National Association of Insurance Commissioners (NAIC) – a national organization with 150 years of experience in providing expertise, data, and analysis for insurance commissioners to regulate the industry and protect consumers effectively - Pennsylvania is privy to the most up-to-date information on issues relating to insurance. In 2023, the NAIC utilized recommendations made in the 2020 publication, the *Principles of Artificial Intelligence*, and finalized a Model Bulletin on the *Use of AI Systems by Insurers*. The Bulletin was drafted by the NAIC Innovation Cybersecurity and Technology (H) Committee and was adopted after extensive engagement with consumer representatives, insurers, and insurance producers. The Commonwealth adopted the NAIC Model Bulletin on April 6th, 2024, as Notice 2024-04. To date, 17 states have adopted the Bulletin.

The Bulletin was not meant to be prescriptive. Its goal was to ensure that insurers are aware of the regulators' expectations as they relate to how AI systems should be governed and managed. The bulletin includes recommended best practices for how insurers obtain, develop and use certain AI technologies and systems, and advises insurers on how to make informed decisions on the use of AI in a manner that does not conflict with the Commonwealth's laws and regulations currently in place. It also advises insurers of the kinds of information and documents that the Department may ask for during an investigation or examination.

The Department understands AI will likely play a critical role in the insurance industry and may be employed in ways that can benefit consumers and streamline processes. PID encourages the development and use of innovation and AI systems that contribute to safe and stable insurance operations. Insurers that use AI are expected to develop, implement, and maintain written policies for the responsible use of AI systems. Any systems should be designed to mitigate the risk of adverse consumer outcomes and contain stringent internal governance controls that protect consumers' data, even if the AI system is developed by a third party.

Several other states are choosing to incorporate the NAIC recommendations into their regulatory or statutory framework. For example, New York and Colorado are enacting measures to prohibit insurers from utilizing this technology in a way that unfairly discriminates against or otherwise harms consumers. In July of this year, New York adopted Circular Letter No. 7 which governs the Use of Artificial Intelligence Systems and External Consumer Data and Information Sources in Insurance

Underwriting and Pricing. Colorado (SB 21-169 of 2021) prohibits insurers from using any external consumer data and information source, algorithm, or predictive model concerning any insurance practice that unfairly discriminates against an individual based on race, color, national or ethnic origin, religion, sex, sexual orientation, disability, gender identity or gender expression. Under Colorado law, each company must submit attestations from its Chief Risk Officer that certify the company has implemented a risk management framework.

As the Chair of the NAIC's Working Group on Big Data and Artificial Intelligence, I am committed to guiding the Working Group in its efforts to understand and promote effective regulation of the use of big data and AI in the insurance industry. The Working Group is proactively conducting research throughout the year – analyzing state, federal, and international developments in the field of AI. The Working Group will utilize this information to develop policy recommendations for the NAIC's Innovation, Cybersecurity, and Technology (H) Committee. Additionally, over the next six months, the NAIC Working Group will survey the use of AI in health insurance and follow up on previous surveys as we continue our work related to the assessing the insurance industry's use of AI tools.

The Department appreciates the introduction of HB 1663, which has prompted engagement on this emerging technology. There are several concepts in the bill that are key to the development of any comprehensive strategy to regulate AI, including transparency surrounding any AI-based processes used by insurers, requirements for documentation of insurer's internal processes, and safeguards to ensure that any AI-based algorithms minimize the risk of bias and instead adhere to evidence-based clinical requirements for documentation of those processes by insurers.

The Department stresses, however, that any statutory initiative regulating AI must provide PID with specific guidelines and the necessary tools to effectively monitor insurers' use of AI and enforce statutory and regulatory standards. The Department, along with other states and the NAIC itself, continues to navigate the ever-changing regulatory landscape and challenges surrounding the use of AI and Machine Learning in the insurance industry. PID remains committed to striking the appropriate balance between encouraging innovation while maintaining the strong consumer protections embedded in our regulatory system.

Again, thank you for the invitation to engage on this important issue. The Department is open to further conversations and looks forward to a productive dialogue during and after today's hearing.