

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.1763 Third-party consultants and National Association of Insurance Commissioners (NAIC); confidentiality; written agreement.

Sec. 1763.

(1) The director may retain, at the insurer's or insurance group's expense, third-party consultants, including attorneys, actuaries, accountants, and other experts not otherwise a part of the director's staff as may be reasonably necessary to assist the director in reviewing the CGAD and related information or the insurer's or insurance group's compliance with this chapter.

(2) A person retained under subsection (1) is under the direction and control of the director and shall act in a purely advisory capacity.

(3) The NAIC and third-party consultants are subject to the same confidentiality standards and requirements as the director.

(4) As part of the retention process, a third-party consultant shall verify to the director, with written notice to the insurer or insurance group, that it is free of any conflict of interest and that it has internal procedures in place to identify and monitor compliance with any conflict that may arise after engagement and to comply with the confidentiality standards and requirements of this chapter.

(5) A written agreement with the NAIC or a third-party consultant, or both, under subsection (4) governing sharing and use of information provided under this chapter must contain all of the following provisions and expressly require the written consent of the insurer or insurance group before making public information provided under this chapter:

(a) Specific procedures and protocols for maintaining the confidentiality and security of CGAD-related information shared with the NAIC or a third-party consultant under this chapter.

(b) Procedures and protocols for sharing by the NAIC only with other state regulators from states in which the insurer or insurance group has domiciled insurers. The agreement must provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality.

(c) A provision specifying that ownership of the CGAD-related information shared with the NAIC or a third-party consultant remains with the department and the NAIC's or third-party consultant's use of the information is subject to the direction of the director with written notice to the insurer or insurance group.

(d) A provision that prohibits the NAIC or a third-party consultant from storing the information shared under this chapter in a permanent database after the underlying analysis is completed and that requires the NAIC or third-party consultant to promptly return or destroy all CGAD-related information provided by the insurer or insurance group.

(e) A provision requiring the NAIC or third-party consultant to provide prompt written notice to the director and to the insurer or insurance group regarding any subpoena, request for disclosure, or request for production of the insurer's CGAD-related information.

(f) A requirement that the NAIC or a third-party consultant consent to intervention by an insurer or insurance group in any judicial or administrative action in which the NAIC or a third-party consultant may be required to disclose confidential information about the insurer shared with the NAIC or a third-party consultant under this chapter.

History: Add. 2018, Act 520, Eff. Jan. 1, 2020

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