

Testimony of
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Commissioners

Before the
Subcommittee on Consumer Protection, Product Safety,
Insurance, and Data Security
Committee on Commerce, Science, and Transportation
United States Senate

Regarding:
Insurance Fraud in America:
Current Issues Facing Industry and Consumers

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Introduction

Chairman Moran, Ranking Member Blumenthal, and members of the Subcommittee, thank you for the invitation to testify today. My name is John Doak. I am the elected Insurance Commissioner for the state of Oklahoma and I present today's testimony on behalf of the National Association of Insurance Commissioners (NAIC).¹ I serve as the Chair of the NAIC's Antifraud Task Force as well as its Property and Casualty Committee. On behalf of my fellow state insurance regulators, I appreciate the opportunity to provide an overview of our efforts to detect, investigate, and prevent insurance fraud.

Insurance is an essential part of the financial services sector, a fundamental pillar of our economy and vital for the well-being of our citizens. It is a means of protection against damage to property or loss of life, and is at the core of the risk management strategies of consumers and businesses. Insurance can be an attractive target for fraud because detection can be a challenge. Unlike other financial products, particularly bank or credit card accounts, which consumers access weekly or even daily, consumers do not interact with their insurance policies with the same frequency — premiums are generally paid monthly or annually and claims are filed only upon the occurrence of an insured event such as injury, death, or damage to one's property. Consumers and businesses spend more than \$2 trillion on insurance per year, and the relatively infrequent interactions between consumers and many of their policies creates tempting windows of opportunity for criminals. The prevalence of insurance fraud costs an estimated \$80–100 billion dollars annually across all lines of insurance and industry estimates that 10 percent or more of property-casualty insurance claims alone may be fraudulent. Insurance fraud inflicts significant financial and personal damage on consumers and imposes additional costs on insurance companies that can be passed along to policyholders in the form of higher premiums.

Reducing and deterring fraud is a priority for state insurance regulators, whose antifraud activities aim to protect consumers and maintain insurers' financial health. The state insurance regulatory response to insurance fraud is multifaceted, involving consumer education and information, reporting and prevention, investigation, and corrective action.

State Insurance Regulators' Efforts to Fight Fraud

Fighting fraud is an important aspect of state insurance regulation. States combat insurance fraud through special fraud bureaus that are charged with identifying fraudulent acts, investigating cases, and preventing insurance scams. Thirty-one states and the District of Columbia have fraud bureaus housed in their insurance department² while eleven states have bureaus housed in their attorney general's office, law enforcement agencies, or another regulatory entity. Other states address insurance fraud through their market conduct, consumer affairs, or legal divisions. Many state fraud bureaus possess law enforcement powers and may also have civil authority to impose

¹ The NAIC is the United States standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia, and five U.S. territories. Through the NAIC, we establish standards and best practices, conduct peer review, and coordinate our regulatory oversight. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.

² California, Connecticut, Louisiana, Maryland, and Oklahoma also have fraud bureaus in their state attorney general's office. Louisiana also has a fraud bureau in their state law enforcement agency.

finer. State fraud bureaus initiate independent inquiries and conduct investigations on suspected fraudulent insurance acts. They also review reports or complaints of alleged fraudulent insurance activities from federal, state and local law enforcement and regulatory agencies, persons engaged in the business of insurance, and the public to determine whether the reports require further investigation and to conduct these investigations. State fraud bureaus regularly conduct independent examinations of alleged fraudulent insurance acts and undertake studies to determine the extent of these acts. States can also access the NAIC's Regulatory Information Retrieval System (RIRS), which contains all final adjudicated actions taken and submitted by state insurance departments. This information typically includes administrative complaints, cease and desist orders, settlement agreements and consent orders, and license suspensions or revocations. Since 2007, there have been more than 96,000 adjudicated actions submitted by the states into RIRS. States can receive alerts through this system.

State insurance regulators work with insurers and their special investigation units (SIUs) to address suspected fraud. The SIUs are divisions within insurers to investigate insurance fraud and usually consist of former law enforcement or claims employees turned investigators. Insurers' SIUs must comply with the *NAIC Insurance Fraud Prevention Model Act* (#680) or similar state fraud prevention statutes. This model act creates a framework to help state insurance regulators identify, investigate, and prevent insurance fraud and provides guidance on how to assist and receive assistance from other state, local and federal law enforcement and regulatory agencies in enforcing laws prohibiting fraudulent insurance acts. Further, the *NAIC Antifraud Plan Guideline* (#1690) establishes standards for SIUs regarding the preparation of an antifraud plan to meet state insurance department requirements. By conducting an audit or inspection, or by reviewing an insurer's antifraud plan in conjunction with a market conduct examination, state insurance regulators help ensure an insurance company is following its submitted antifraud plan.

NAIC Antifraud Initiatives

As part of state insurance regulators' efforts to help fight the growing problem of insurance fraud, the NAIC formed an Antifraud Task Force in the 1980s. Through this task force, states coordinate efforts to review issues related to fraudulent insurance activities and schemes; address national concerns related to insurance agent fraud and unauthorized insurance sales; educate consumers about insurance fraud; maintain and improve electronic databases regarding fraudulent insurance activities; and disseminate research and analysis of insurance fraud trends to the insurance regulatory community. The Task Force also serves as a liaison between insurance regulators, law enforcement and other antifraud organizations, and coordinates with state and federal securities regulators.

Data collection and information-sharing are critical to our antifraud efforts. Through the NAIC, state insurance regulators created the Online Fraud Reporting System (OFRS), through which consumers and insurers can electronically report suspected fraud to the appropriate insurance department. By using this system, consumers and insurers have one central, online portal to report suspected fraud to one or more states. A report made in OFRS against an insurer or intermediary is delivered to all states in which the insurer or intermediary does business. Since its inception in 2005, there have been more than 685,000 reports of suspected fraud received through OFRS.

In addition, the Task Force is undertaking an initiative to evaluate sources of antifraud data and propose methods for improving the exchange of information among insurance regulators, law enforcement officials, insurers SIUs, and other antifraud organizations. The Task Force is developing uniform insurance fraud referral requirements for insurers to submit suspected insurance fraud data to state insurance departments. We are collecting information from the states in order to develop these requirements. Task Force members also continue to develop new and update existing seminars, trainings and webinars for regulators regarding insurance fraud and relevant trends, and efforts to combat fraud.

The NAIC and state insurance regulators also play an important role in educating consumers. The NAIC has a robust communications effort in place through its consumer alerts and Insure U public education program to assist consumers with navigating the complexities of insurance. The NAIC website provides tools to help consumers avoid being scammed. The NAIC's "Fight Fake Insurance" program was developed to protect consumers from insurance fraud by encouraging them to "Stop, Call, Confirm" that the individual insurance agent and company are properly licensed by their state insurance department before buying coverage. In my home state of Oklahoma, my department leads a series of Senior Fraud Conferences throughout the year focused on educating and protecting seniors regarding Medicare fraud and other types of financial fraud. In 2017, we held seven conferences with approximately 500 attendees statewide.

Coordination with Federal Government and International Partners

In addition to our work with insurance consumers within our own states, state insurance regulators collaborate with our federal and international colleagues to address insurance antifraud issues. State insurance regulators work with the U.S. Department of Treasury and other financial regulators on Anti-Money Laundering (AML) initiatives as well as initiatives to combat the financing of terrorism (CFT), which can involve permanent life insurance, annuities, and other products with cash value or investment features. While the Treasury Department's Financial Crimes Enforcement Network (FinCen) has primary responsibility in this arena, state regulators coordinate with FinCen and monitor insurer activities to make sure they are not engaging in these activities and are not susceptible to those acts. To cooperate and facilitate the sharing of information, state insurance departments and FinCen have established Memorandums of Understanding and insurance regulators notify appropriate federal regulators if an insurer is not in compliance with AML/CFT requirements.

With regard to health care, the NAIC and state insurance regulators participate in the Centers for Medicare and Medicaid Services' (CMS) Healthcare Fraud Prevention Partnership (HFPP), a voluntary public-private partnership between the federal government, state agencies, law enforcement, private health insurance plans, and healthcare anti-fraud associations. The HFPP aims to foster a proactive approach to detect and prevent healthcare fraud through data and information sharing.

On the international front, the NAIC actively participates in the International Association of Insurance Supervisors' (IAIS) Financial Crime Task Force to addresses supervisory practices and issues surrounding fraud, anti-money laundering/combating the financing of terrorism, and cyber risks.

Current Insurance Fraud Trends

Through our interactions with our state and federal regulatory and law enforcement counterparts, we are seeing some disturbing insurance fraud trends, including:

- **Contractor/adjuster fraud following natural disasters:** State insurance departments have seen a number of instances of contractor and adjuster fraud recently that have occurred immediately after floods, tornados, and other natural disasters. Contractors or insurance adjusters have required advance payments from consumers for services or advance assignment of insurance policy benefits. In these cases, the contractors sometimes disappear without ever doing the work. In other cases where repairs are made, the contractor engaging in this conduct does substandard work using substandard materials. In Oklahoma, my department's antifraud unit deploys to disaster areas to assess damage and to educate consumers about potential fraud and how to avoid it. They will place yard signs in affected areas with our consumer hotline so consumers know how to get help with insurance issues and go door to door to speak to impacted individuals.
- **Medical equipment scams on seniors and identity theft:** In this scam, seniors receive unsolicited calls from scammers who insist that the seniors have an urgent need for medical equipment and claim Medicare or Medicaid will pay for the equipment at no cost to them. The personal information provided by the victim is then used to file unjustified claims and for other fraud schemes, such as identity theft.
- **Opioid abuse/insurance scam:** As a result of the growing opioid epidemic, state insurance regulators are seeing an increase in fraudulent prescription scams to capitalize on this surge in addiction. Some corrupt medical professionals are unlawfully and overly prescribing opioids, while billing the costs to insurance companies. "Pill mill" doctors that overly prescribe pills without medical justification run clinics in which they give patients opioid prescriptions, typically for cash, with few questions asked. This scheme allows patients to easily obtain opioids in order to sell or misuse them.
- **Automotive windshield replacement scams:** State insurance departments are seeing a rise in a scam whereby a stranger at a car wash, a parking lot attendant, or valet parking service offers to repair or replace a vehicle owner's windshield. The fraudster claims the windshield is unsafe and says that insurance will take care of the entire cost. Even though the windshield is perfectly fine, the fraudster replaces the windshield and files a claim on the individual's policy. Not only is the work unnecessary and the claim fraudulent, the replacement windshield may itself be defective, may not be a correct fit or may not be installed correctly, which can then lead to serious safety risks.
- **Life insurance fraud:** State insurance departments are also seeing a rise in the tragic case of parents or guardians taking out a life insurance policy on their child and then murdering them for the payout. State insurance departments are currently working diligently on ways to tighten insurers' underwriting procedures and assist local law enforcement by closely monitoring and possibly preventing the sale and issuance of such policies.

These examples are a few of the recent trends that we have observed, but other fraudulent scams have been around for some time, such as staged auto accidents with the resulting fraudulent automotive and medical claims, faked workers compensation claims, and arson by homeowners.

Conclusion

As insurance fraud continues to evolve, state insurance regulators remain vigilant in our efforts to combat fraud and work with relevant stakeholders to address critical concerns. Our fight against insurance fraud never stops and state insurance regulators continue to adapt our strategies to prevent, detect, and investigate such schemes to protect consumers and support insurers' financial health. We appreciate the subcommittee's focus on this important issue and the opportunity to be here on behalf of the NAIC, and I look forward to your questions.