

Auto Insurers to Join Life Insurers at Colorado DOI's Big Data Dance

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The Colorado Division of Insurance announced that it will host another stakeholder meeting regarding unfair discrimination in insurance practices on April 6, 2023, from 10:00 - 11:00 a.m. MT. Unlike prior meetings, all of which focused exclusively on life insurance underwriting practices, this next stakeholder meeting will focus on underwriting practices in private passenger auto insurance as part of the division's ongoing implementation of Senate Bill (SB) 21-169.

Enacted into law last year, SB 21-169 is intended to protect Colorado consumers from insurance practices that result in unfair discrimination on the basis of race, color, national or ethnic origin, religion, sex, sexual orientation, disability, gender identity, or gender expression. At its last stakeholder meeting on February 7, the division discussed its draft proposed Algorithm and Predictive Model Governance Regulation, which we detailed [here](#). Given the focus of prior stakeholder meetings, some at the February 7 meeting may have been surprised to hear Commissioner Conway describe the draft regulation as applying to all insurance practices, as opposed to life underwriting practices specifically.

Recent comments from industry trade groups regarding the draft regulation have voiced the following concerns:

- **Overly Broad Scope** – Commenters raised questions over the feasibility of including other types of insurance such as health and auto, and other insurance practices such as marketing and claims management within the draft regulation's scope. They also expressed concern over the ability of life insurers to fulfill their obligations under the draft regulations with respect to protected classes beyond race and gender.
- **Too Prescriptive** – Commenters expressed concern over the prescriptive nature of the draft rulemaking, with some advocating for a principles-based approach.

- **Recognition of Confidentiality** – Given the sensitive nature of the information required under the draft regulation to be reported by insurers to the division, commenters noted the conspicuous absence of any reference to the confidentiality protections afforded to insurers under SB 21-169, and asked that those protections be expressly recognized by the regulation.

Now that private passenger auto insurers have been invited to the dance, so to speak, it seems clear that the division is intent on adopting a regulation that goes well beyond life underwriting practices. It will also be interesting to see how auto insurers react to the draft regulation and whether life and auto will join forces in helping the division craft a regulation that is protective of consumers without causing undue burden on insurers.

We will continue to monitor the division’s efforts toward implementing the draft regulation.

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