

Colorado Division of Insurance Announces Life Insurance Underwriting Data Call and Survey Details

September 29, 2022

Survey Released by September 30

On September 28, the Colorado Division of Insurance (CO DOI) held its fourth stakeholder meeting to discuss life insurers' underwriting practices. SB-169 required insurers to test their use of external consumer data, information sources, algorithms, and predictive models and aims to protect consumers from unfairly discriminatory results. During the meeting, the CO DOI announced details regarding the timing and recipients of an industry survey and data call, the focus of proposed rulemaking, and the appointment of Jason Lapham, former CO DOI director of life and health rates and forms, as SB-169 implementation director.

Industry Survey and Data Call

Over the summer, the CO DOI announced that it would issue a [survey](#) and [data call](#) to a sample of life insurance companies. At the fourth stakeholder meeting, the CO DOI clarified the following:

- 10 life insurance carriers, randomly selected from the 25 insurance carriers with the largest number of covered lives, will receive the survey to collect information regarding their practices with respect to governance and testing processes for unfair discrimination;
- 5 life insurance carriers will also receive a request for application data to ascertain whether unfair discrimination exists in their use of external consumer data and information sources (ECDIS). The data call seeks information on application data for products that use ECDIS in one or more algorithms/predictive models;

- The data call will be similar to the version exposed over the summer, but it will include a few key changes. It will account for indexed and variable products. Further, it will include a new field for universal life products to capture the differentiation between the cost of insurance and planned annuity amount at the time of issue;
- Recipients will be asked for data going back 2.5 years;
- Recipients will have four weeks to complete the survey and data call; and
- The survey and data call will be released no later than September 30, 2022.

Draft Regulations

The CO DOI also provided further direction on its rulemaking efforts, indicating a desire to focus on the establishment of a data governance framework and testing protocols.

Data Governance

The CO DOI envisions a data governance framework that includes:

- Multidisciplinary, cross-functional teams;
- Clearly defined roles and responsibilities;
- Board oversight;
- Formalized accountability;
- Written procedures, regarding:
 - How algorithms and predictive models are developed/deployed, training and supervision, risk mitigation measures, ongoing monitoring, and corrective actions;
 - Consideration of every state of the artificial intelligence life cycle;
- Maintenance of an inventory of algorithms and predictive models and their intended purposes;
- Requirements for the selection and use of third-party vendors, algorithms, and predictive models;
- Preparation of reports demonstrating what ECDIS, algorithms, and models are used, how they are used, associated risks, mitigation efforts, and periodic assessment of the framework;
- Exemptions to the reporting requirements by documenting and attesting to the inapplicability of the regulation for insurers that do not use ECDIS;
- Regular reporting with milestones.

Testing

The CO DOI did not provide details regarding testing rulemaking. Commissioner Michael Conway explained that the CO DOI aims to confirm that Bayesian Improved First Name Surname Geocoding (BIFSG) works to infer race in an insurance context. However, he reiterated that the CO DOI will continue to have a dialogue with the industry on the applicable standards.

Next Steps

The governance framework and the testing rules will be developed concurrently. The CO DOI will use a phased approach to implement the data governance framework and testing rules. Conway expects that the draft rules regarding life insurance underwriting will be released after January 1, 2023.

Government affairs contacts for the 25 applicable companies should be prepared to receive the survey and/or data call by the end of the week. The next stakeholder meeting is expected to occur in December. We will continue to monitor the activities of the CO DOI and the rulemaking process for SB-169.

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