

Executive Summary

The Project

Recognizing the potential importance to all insurance consumers, the Insurance Consumer Affairs Exchange (ICAE) created this position paper proposing specific consumer affairs complaint handling and reporting standards. The goal of proposing these standards to the NAIC is straightforward: consistent complaint handling and statistical reporting for all lines of business and all states. ICAE knows that consistency standards will ultimately enhance the insurance industry to the benefit of the insurance-buying public. In preparing this paper, ICAE gathered information from more than 100 individuals, including 27 regulators representing ten states.

The Standardization Topics

ICAE is uniquely positioned to propose and be the champion of consumer affairs reporting standards because ICAE exists to gather insurers and regulators together in an open and informal environment. After gathering input from representatives of various stakeholder groups: regulators, companies, insurance organizations, professional associations and consumers, ICAE identified five topics and developed standards for those topics which were sent to all those who provided input, and to ICAE members. As a group, consensus was reached on three of the topics, listed below. Although consensus was not reached on the additional two topics, the work done was significant and are, therefore, included in this paper as appendices.

The topics for which consensus were reached are:

- Communications from Departments of Insurance* (DOIs) to companies
- Communications from companies to DOIs
- Standardization of complaint coding and reporting platform

In undertaking this proposal, ICAE recognized the success barriers to similar projects in the past and has structured this proposal to overcome traditional barriers. Most significantly, ICAE was able to gather input from all participants to promote the benefits and develop a strategy for adopting this proposal. Additionally, because these proposal targets standards that can be implemented incrementally, the prospect for success is enhanced.

The standards proposed here are important first steps in the ongoing process of embracing best practices. In this case, the best practices standards proposed are standards that promote consistency and uniformity across states and lines of business.

** Note: For simplicity, throughout this document, the terms Department of Insurance or DOI are used generically to indicate the state departments of insurance, or state insurance departments, or insurance units within a state's department of finance to accommodate the nomenclature that varies state by state.*

The Project:

The costs associated with non-standard, or inconsistent, complaint handling and reporting are significant—significant to the insurance industry, to regulators and, most importantly, to consumers. Recognizing the potential importance to insurance consumers across the nation, the Insurance Consumer Affairs Exchange (ICAE) created this position paper to create uniformity and eliminate redundancy and proposing specific consumer affairs complaint handling and reporting standards.

ICAE's clear and stated goal of identifying, adopting and proposing these standards to NAIC is consistent complaint handling and statistical reporting for all lines of business and all states. ICAE knows that a thoughtful, incremental standardization project will ultimately enhance the insurance industry to the benefit of the insurance-buying public.

What's working?

In general, the insurance consumer affairs marketplace has many strengths:

- Dedicated, knowledgeable regulators,
- A growing foundation for interaction between companies and regulators to resolve issues and consumer complaints,
- A large number of companies who are sincerely dedicated to providing superior customer service,
- A growing public awareness of the importance of corporate governance issues,
- Rapid advancements in technology that speed the communications process and facilitate access to information for companies, regulators and consumers; and
- Associations such as ICAE communicating and promoting best practices to regulators as well as to insurers while promoting relationships between entities to help ensure smooth resolution of consumer issues.

Current environment: Target improvement areas

During the past year, ICAE has formally gathered input from all participants to develop a list of targeted improvement areas that, in the current environment, diminished consumer affairs efforts by both regulators and companies. The standards proposed here specifically address the target improvement areas:

- *Communication of information:*
Inconsistent, incomplete and/or delayed information flow between companies and regulators has had a negative impact on both. Companies have expressed concerns that poor communications flow has resulted in inadequate time to research and draft appropriate responses to consumers or regulators. In addition, companies have expressed the concern that documentation and information requests from regulators can be inappropriate, not relevant, and/or redundant. When requested information is slow to get to regulators, the company is viewed as resistant to requests.
- *Response times:*
Non-standardized, or inconsistent, reporting and complaint response times create frustration for companies and regulators, and waste time for companies who must keep track of multiple response dates.
- *Problem resolution—who's on first:*
The sheer size of some companies and DOIs can create barriers on both sides in actually tracking and working with the appropriate individuals. This issue includes companies with no centralized complaint unit as well as DOIs that lack specific tracking systems. The resulting confusion of where a complaint should go, who should handle it and how best to answer the consumer has created duplication of work, delayed response times and frustration for both regulators and companies— resulting, of course, in diminished service for consumers.

*Consistency and Uniformity
In Complaint Handling and Reporting
Proposed Standardization Topics from ICAE to NAIC*

Proposed standards

This set of standard recommendations is a start. Because change is difficult and can take time, ICAE specifically targeted a limited number of standards for this initial proposal, envisioning that additional consistency standards can be added as the project goes forward.

By proposing a limited number of standards at a time, the prospect for success will be enhanced for a variety of reasons:

- The rate of change will be at an acceptable level for busy professionals.
- Regulators will have time to review and forward the recommended standards to companies.
- Changes can be accommodated incrementally, over time, so that success breeds success.

The following topics were established as important first steps for consumer affairs reporting standardization which, if successfully implemented, will establish credibility for an ongoing standardization project that will revolutionize how the insurance industry handles consumer affairs. The standardization topics in this proposal are:

- Communications from insurance regulators to companies
- Communications from companies to insurance regulators
- Standardization of complaint coding and reporting platform

Advantages for insurance companies, regulators, the NAIC and, most importantly, the consumer, make a compelling argument for adopting the standards identified for each topic.

Advantages for *companies* include:

- Improved service delivery for and communications to consumers, enhancing reputation and product delivery.
- Companies will experience improved communications with regulators.
- Companies will have the opportunity for enhanced training of industry professionals and improved institutional knowledge.
- Cost savings realized as best practices are implemented across states.
- Increased efficiencies realized as consistency standards remove guess work.

Advantages for *regulators* include:

- Regulators could have faster, more accurate complaint resolution for constituents.
- Regulators can take advantage of best-practices efficiencies.
- Regulators would experience improved communications with NAIC.
- Regulators will have a stronger understanding of companies in terms of state-to-state differences, which will enhance multi-state corporate/regulator relationships.

Advantages for NAIC include:

- Improved accuracy and, therefore, use of data,
- More effective and consistent data analysis,
- Improved credibility for data and for organization,
- Stronger knowledge of and relationships with regulators, and
- Improved compliance with NAIC complaint model regulations.

The advantages for all stakeholders are significant, especially when using Web-based technology** and online interfaces between all parties. If implemented, the consumer will be the big winner as complaints are resolved thoroughly and efficiently. A positive consumer-oriented environment will be created and sustained enabling consumers to compare companies on a level playing field.

***To give this position paper a broad application, electronic communications is cited throughout. ICAE recognizes that not all DOIs or companies employ electronic communications to the same extent. However, where applicable, the standards proposed apply to electronic communications as well as to paper-based communications.*

Communications (from regulators to companies)

In today's business environment, there is no state-to-state consistency regarding what regulators require from companies when resolving a complaint. This is especially an issue for multi-state insurers but also impacts the marketplace directly. Delays in complaint resolution can be caused in the information-gathering process both in terms of what information regulators are requesting as well as what information the regulators have sent to insurers (some regulators provide a complaint synopsis rather than a copy of the actual complaint).

In addition to the *content* issue for the communication flow between regulators and insurers, how the information is delivered (U.S. Postal Service, fax, email, online access) has also been identified as an issue.

Finally, content and delivery issues notwithstanding, who the regulators should contact within corporations and *timing of responses*, were also identified as areas where all stakeholders would benefit from standardization.

Proposed standards

ICAE proposes the following standards for all consumer affairs communications from regulators to insurers:

Regarding *what* is requested:

- Each complaint is to be given a unique identification number to facilitate information flow and to eliminate duplication.
- If a synopsis of a complaint is provided, copies of the primary documentation should also be provided.
- A standardized template "Requested Information Checklist" must be created with relevant informational items listed by line of business so that the regulators can use the checklist as a one-stop request for insurers. With the checklist, regulators can check what information is needed from the insurer and submit it with the complaint. This creates some standardization from individual-to-individual and across states.

Regarding *how* information is requested:

To accommodate the differences in technology on a state-by-state basis, ICAE proposes that regulators clearly state how they prefer the information to be submitted (in keeping with state legislation).

However, as a standard going forward, ICAE encourages regulators to make a secure Web site, and where necessary, to facilitate email and fax as the **only** standards by which complaint information will be sent and accepted. Primary documents (such as letters of complaints) can be scanned and sent via secure Web site. Inquiries by telephone are welcome and encouraged by insurers.

Regarding *who* to contact: It is proposed that each complaint and subsequent follow-up action have the name of the complaint investigator and his/her contact information—either direct phone line and/or e-mail address.

It is further recommended that each state's department of insurance and all insurers post the contact names and phone numbers of their key consumer affairs staff on their respective secured Web sites.

Regarding the *timing* of responses: ICAE recognizes that a uniform statutory response time that spans state boundaries and lines of business is not feasible in the current environment. (There is a need to examine each state's statute, regulations and administrative rules that cover formal and informal response times and move to common time frames. This could be facilitated by a NAIC Model Act.) However, a standard is still proposed for regulators to provide specific, actual, due dates that allow sufficient time for response and by what standard the due date was established. Complete information might look like this:

- Your response must be submitted to (name, phone) at the state department of insurance no later than Tuesday, July 5, 2006.
- This date was established to comply with state law that establishes insurers have XX business days from the date a complaint was received to research and respond to complaints.

Rationale:

By embracing this standard in its entirety, the communications flow will be dramatically enhanced so that complaint resolutions are handled in a timely fashion. Both regulators and insurers will find the standardized checklist and explicit time frames to be a time saver in their day-to-day business.

Communications (from companies to regulators)

To achieve a stronger two-way communications flow, input was gathered from regulators regarding the information flow from companies into the state insurance departments.

Some elements identified were the same as issues involving communications from regulators to companies and so have been addressed in terms of identification numbers, contacts, timing of response and incomplete information transfers.

Some unique issues in the communications flow from companies to regulators include nonstandard form letters with conflicting or confusing terminology and non-standard response recipients (client vs. DOI). While ICAE recognizes these concerns, they were determined to be beyond the scope of this “first steps” proposal.

Proposed Standard

Referenced above, the standards proposed for the communication flow from regulators to companies also should be embraced from companies to regulators. However, additional NAIC standards are proposed for the insurer:

- Each company should include the NAIC identification number as the unique identifier on all communications to regulators.
- A standardized template “Submitted Information Checklist” must be created with relevant informational items listed by line of business so that the company contact can list what has been sent. As before, this creates some standardization from individual to individual within a DOI (different individuals within the same DOI can request vastly different information for similar cases) and across states.
- The company must always include the following on all complaint communications:
 - Complainant name,
 - Insured name,
 - Company contact: mailing address, phone, fax and email
 - Policy number,
 - Line of business,
 - State insurance department file number, and
 - NAIC identification number.

Rationale:

Inclusion of the above items will provide for clearer identification of relevant complaint data, thus improving data collection, as well as more timely resolutions. Leaving out any detail can result in frustration and delays. By embracing this standard in conjunction with the standards for DOIs to companies, the communications flow will be dramatically enhanced so that complaint resolutions are handled in a timely fashion.

Standardization of complaint coding and reporting platforms

Significant to both the regulators and insurers is the issue of standardizing codes in conformance with the model regulation for complaint records to be maintained pursuant to the NAIC Unfair Trade Practices Act. In the current environment:

- There are an excessive number of codes,
- Codes that are vague and result in potentially inconsistent data when used to spot errors and omissions and ultimately to identify trends;
- No or little opportunity for DOIs to reconcile data, and
- A reporting platform that is not user-friendly.

The issues surrounding the NAIC codes are significant. Below are initial guidelines for suggested improvements. Again, the standards proposed here are first steps to what is envisioned to be a larger process.

The NAIC is recognized as the only entity to which this type of complaint coding and reporting is being done and there is a desire to strengthen that relationship by making the information reported more accurate and timely to both the NAIC and to the reporting entities. Based on participant input, the first step in the process of overhauling the coding system and the reporting platform is addressing the issue of some states not reporting complaints. (To clarify the highlighted phrase, meeting notes indicate there are some regulators and companies who believe *not* all states comply with reporting standards.) Indeed, cleaning up this system for greater information gathering, consistency and usefulness would be an ideal calling-card for the NAIC for ongoing dialogue with state regulators.

Proposed Standard

ICAE respectfully proposes that the NAIC require all states to report the same data and use the same methodology to compute complaint ratios.

As important—and immediate—next steps to embracing and enforcing the state-by-state reporting standards, ICAE recommends that the NAIC;

- Establish codes that provide for:
 - Better definitions,
 - Uniformity across lines of business and states,
 - All complaint data by company, and
 - Multiple reasons and coverage's per state
- Revise the consumer affairs reporting site to improve user-friendliness and enable reconciliations be done quickly.

Rationale

A more equitable and useful reporting system will establish more accurate and consistent information gathering, resulting in better consumer information. The result? Better trending and forecasting from state to state, region by region and nationally by both the state regulators and insurers. Ultimately, increased accuracy and usage of reported information will enhance the reputation of all stakeholders.

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Touch points for success:

In undertaking this proposal, ICAE recognized the barriers that prevented success in the past and has structured this proposal to succeed so that:

- Standards can be implemented over time.
- Benefits for all stakeholders have been clearly articulated.
- Adoption of the standards will enhance the ability to respond to the consumer's complaint.
- Benefits of realization will offset the cost of implementation.
- The proposal fully harnesses the power of technology and the potential for future technological enhancements for regulator and/or corporations.

Conclusion:

The standards proposed here are important first steps to the ongoing process of embracing best practices, in this case standards that promote consistency and uniformity across states and lines of business. Although three are proposed here, this document is fluid. ICAE suggests an implementation plan where individual standards can be adopted separately and implemented incrementally, thus creating a controlled environment for change that will succeed for the benefit of all.

A word about the appendices:

Following are two additional standards that were reviewed by stakeholders. It's important to note that these topics generated significant discussions both within the initial ICAE Roundtable meeting in Columbus, and ultimately across time and distance as the group sought consensus for all topics. Initially, strong support was shown for the definitions and standards proposed here. However, there was sufficient and ongoing debate to the point that the Executive Committee decided these points had the potential to become divisive, rather than unifying, topics. It was decided at this point to turn the significant work on the topics over to a more recognized governing body (NAIC) that could use the information here as a start but also use its significant reputation to achieve consensus.

Although no consensus could be reached on the proposed standards by participants, there was complete consensus on the ideal that these standards should ultimately be included in the NAIC's working group review of issues.

Attached, then, is the group's input for standards for:

- Definition of a complaint, and
- Recordkeeping and confidentiality

Appendix I

ICAE remains committed to all standardized topics proposed here both in the body of the position paper and the appendices. Clearly, a standard definition of "complaints" will help the industry and regulators because statistics received from different companies and states will be consistent and, therefore, the conclusions drawn from the data will be accurate.

Definition of a Complaint

Because the definition of "complaint" is not standard, it has traditionally caused an uneven marketplace for insurers. The uneven marketplace results in reporting discrepancies, inaccurate data analyses, and disproportionate market conduct exams (with the potential of inaccurate results). Ultimately, this non-standard definition can impact the consumer's ability to judge companies' products and their service promise.

A non-standard complaint definition creates an even greater disparity in reporting at the corporate level; some companies include service and sales practices and appeals while others do not; some corporations log "unjustified" resolutions as complaints, while others do not.

Proposed standard

ICAE proposes the following standard definition of "complaint" as agreed to at the first meeting where regulators and members gathered:

Any consumer communication that expresses dissatisfaction with a regulated entity, producer or product where the individual or group expressing the dissatisfaction would reasonably expect a written response.*

Of special note about this definition:

- As has been the tradition for both insurers and regulators, a statutory violation is not required for a communication to become a complaint.
- The written response can be in any form including email and letters delivered by USPS or couriers.

Rationale

Adopting a uniform definition will give the NAIC, regulators and companies the truest possible picture of consumer affairs complaints. This definition will assist all entities in tracking trends so that genuine problem areas can be addressed in a timely, responsible and professional fashion as corporate and regulator time is freed up from handling annoying non-issues.

*The ICAE definition supports tracking only those issues requiring written responses for NAIC reporting purposes. Individual companies are still encouraged to track, internally, issues which are resolved verbally—in-person or via the phone. Documenting phone calls could spot important trends for the insurers without necessarily impacting market conduct exams.

Recordkeeping & Confidentiality

Note: While it was agreed that this standard should remain on the NAIC working group's agenda, there was no consensus of the full membership for this standard. It was agreed that the standard did not fully explore the differences between the sunshine/non sunshine states in terms of consumer expectations and legal requirements. Therefore, the proposed standard was removed so that the position paper and working group request could move forward.

In the current environment, companies and state regulators can be in the unfortunate position of each wondering why the other is requesting specific information. Both companies and regulators are concerned with safeguarding consumer confidentiality and some companies, while trying to ensure privacy, find themselves at odds with issues that must be determined on a state-by-state basis. Both on the corporate side and on the regulator side, there is a lack of shared knowledge regarding what happens to confidential documents. Insurers find themselves in the position of handling or generating two sets of documents for the same complaint in order to protect proprietary and/or confidential information.

Proposed Standard

The following standards are proposed as important first steps in this process. Ultimately, ICAE proposes the development of a rules-of-use policy for consumer information and corporate recordkeeping to ensure the safeguarding of private and proprietary information. However, recognizing that may be in the future, ICAE proposes the following standard in the short term:

- All state DOIs create a uniform policy and procedure document detailing:
 - A uniform web based complaint form that can interact with complaint applications or be downloaded for the time being,
 - How the DOI handles requests for public information, confidential communication and proprietary information that is automatically a part of the complaint file,
 - How DOIs are an exception to HIPAA and confidential legal settlement agreements,
 - The elimination of Social Security numbers (SSN) on documents where the SSN is not a policy number,
 - Assurances that the DOI will provide information only to identified, appropriate parties with those parties listed, and
 - What the state's confidential document retention policy is, including how confidential documents will be destroyed and when.
- As part of this standard, insurers will prepare a similar document that:
 - Advocates for the use of technology and electronic transfer of complaints,
 - Clearly identifies and informs the identified DOI contact of any confidential and/or proprietary information contained in the reply that cannot be released to the public,
 - Informs the regulator that separate confidential information has been prepared to be released to the insured,
 - Notes, where appropriate, what attachments are confidential and/or proprietary, and
 - Provides that all documents, where necessary, are stamped, "confidential".

Rationale

Embracing these standards will immediately allow both companies and regulators to understand what is occurring with public information and confidential communications. By working to establish these best-practices, consumers will benefit by a free flow of confidential information to appropriate parties which will speed complaint resolution. Most importantly, the removal of Social Security numbers (SSN) from documents significantly mitigates the potential for identity theft.