WEST VIRGINIA CODE: §33-52-6

§33-52-6. Confidentiality.

(a) Documents, materials or other information, including the CGAD, in the possession or control of the commissioner that are obtained by, created by or disclosed to the commissioner or any other person under this article, are recognized by this state as being proprietary and to contain trade secrets. All such documents, materials or other information are confidential by law and privileged, are not subject to the provisions of chapter 29e-b of this code, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action. The commissioner may use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer. Nothing in this section requires written consent of the insurer before the commissioner may share or receive confidential documents, materials or other CGAD-related information pursuant to subsection (c) of this section to assist in the performance of the commissioner's regulatory duties.

(b) Neither the commissioner nor any person who received documents, materials or other CGAD-related information, through examination or otherwise, while acting under the authority of the commissioner, or with whom such documents, materials or other information are shared pursuant to this article is permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a) of this section.

(c) In order to assist in the performance of the commissioner's regulatory duties, the commissioner may:

(1) Share documents, materials or other CGAD-related information including the confidential and privileged documents, materials or information subject to subsection (a) of this section, including proprietary and trade secret documents and materials with other state, federal and international financial regulatory agencies, members of any supervisory college as defined in §33-27-6a of this code, the National Association of Insurance Commissioners, and third party consultants pursuant to §33-52-7 of this code: Provided, That the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, material or other information and has verified in writing the legal authority to maintain confidentiality; and

(2) Receive documents, materials or other CGAD-related information, including otherwise confidential and privileged documents, materials or information, including proprietary and trade-secret information or documents, from regulatory officials of other state, federal and international financial regulatory agencies, members of any supervisory college as defined in §33-27-6a of this code, and the National Association of Insurance Commissioners, and shall

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maintain as confidential or privileged any documents, materials or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information.

(d) The sharing of information and documents by the commissioner pursuant to this article does not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution and enforcement of the provisions of this article.

(e) No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade-secret materials or other CGAD-related information may occur as a result of disclosure of such CGAD-related information or documents to the commissioner under this section or as a result of sharing as authorized in this article.

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