WEST VIRGINIA CODE: §33-52-7

§33-52-7. National Association of Insurance Commissioners and third-party consultants.

(a) The commissioner may retain, at the insurer's expense, third-party consultants, including attorneys, actuaries, accountants and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the CGAD and related information or the insurer's compliance with this article.

(b) Any persons retained under subsection (a) of this section is under the direction and control of the commissioner and may act only in a purely advisory capacity.

(c) The National Association of Insurance Commissioners and third-party consultants are subject to the same confidentiality standards and requirements as the commissioner.

(d) As part of the retention process, a third-party consultant shall verify to the commissioner, with notice to the insurer, that it is free of a conflict of interest and that it has internal procedures in place to monitor compliance with a conflict and to comply with the confidentiality standards and requirements of this article.

(e) A written agreement with the National Association of Insurance Commissioners and/or a third-party consultant governing sharing and use of information provided pursuant to this article shall contain the following provisions and expressly require the written consent of the insurer prior to making public information provided under this article:

(1) Specific procedures and protocols for maintaining the confidentiality and security of CGAD-related information shared with the National Association of Insurance Commissioners or a third-party consultant pursuant to this article;

(2) Procedures and protocols for sharing by the National Association of Insurance Commissioners only with other state regulators from states in which the insurance group has domiciled insurers. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, materials or other information and has verified in writing the legal authority to maintain confidentiality;

(3) A provision specifying that ownership of the CGAD-related information shared with the National Association of Insurance Commissioners or a third-party consultant remains with the commissioner and the use of the information by the National Association of Insurance Commissioners or third-party consultant is subject to the direction of the commissioner;

(4) A provision that prohibits the National Association of Insurance Commissioners or a third-party consultant from storing the information shared pursuant to this article in a

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permanent database after the underlying analysis is completed;

(5) A provision requiring the National Association of Insurance Commissioners or third-party consultant to provide prompt notice to the commissioner and to the insurer or insurance group regarding any subpoena, request for disclosure, or request for production of the insurer's CGAD-related information; and

(6) A requirement that the National Association of Insurance Commissioners or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners or a third-party consultant may be required to disclose confidential information about the insurer shared with the National Association of Insurance Commissioners or a third-party consultant pursuant to this article.

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