



5x5 series: Insights and actions

Artificial intelligence (AI) regulatory update in insurance

AI is reshaping the insurance industry, impacting product development, marketing, underwriting, and more. States are developing methods to establish fairness in AI model usage.¹ The Model Bulletin by the National Association of Insurance Commissioners (NAIC) provides a structure for state oversight, with a focus on legal compliance, but does not include specific deadlines or testing requirements. The NAIC makes clear that existing regulations are sufficient even as it continues to adjust its model and descriptions of key terms, based on stakeholder input. Colorado's Regulation 10-1-1 (CDOI), effective November 14, 2023, is designed to combat unfair discrimination on the grounds of race/ethnicity.² It enforces thorough measures to identify and correct instances of such discrimination in the insurance sector, representing a unique approach.³



5 things you should know

Applicability: CDOI applies to life insurers using External Consumer Data and Information Sources (ECDIS) and will later extend to Property and Casualty (P&C) insurers. The NAIC bulletin applies to all insurance carriers.

Compliance deadlines: CDOI has established compliance deadlines for 2024, whereas the NAIC becomes applicable as soon as it is adopted by individual states.

Reporting requirements: CDOI mandates both initial and annual reports with defined submission deadlines and page limitations, while the NAIC's guidelines lack specifications regarding reporting timelines.

Testing and verification: CDOI may involve a two-step process requiring further assessment of potential bias/unfair discrimination, if initially found based on the initial calculations, while the NAIC encourages testing without stipulating precise criteria.

Third-party oversight: CDOI necessitates that insurers establish compliance and document oversight of third-party vendors, whereas the NAIC bulletin⁴ does not have specific provisions regarding third-party oversight.

5 actions you can take

1

Monitoring: CDOI necessitates ongoing vigilance in monitoring updates and changes in CDOI regulations for compliance, while the NAIC advises keeping abreast of AI guidelines and developments relevant to your jurisdiction.

2

Compliance assessment: CDOI necessitates the evaluation of insurance operations to identify AI usage and areas of non-compliance with CDOI regulations, whereas the NAIC recommends review of insurance operations to assess AI usage and establish alignment with NAIC guidelines.

3

Reporting and documentation: CDOI necessitates the timely submission of an initial report by June 10, 2024, and an annual report within a 10-page limit to demonstrate compliance commitment due December 1, 2024. The NAIC recommends well-organized, accurate documentation without specific deadlines or page constraints, enabling responsiveness to state insurance departments' requests.

4

Testing and verification: CDOI mandates the development of rigorous testing protocols, the calculation of potential bias, and the execution of tests in compliance with CDOI requirements. The NAIC bulletin notifies insurers that state regulators might inquire about the company's data validation methods in its oversight of models and AI systems.

5

Third-party due diligence: Both CDOI and the NAIC bulletin⁵ expect insurers to establish compliance of third-party vendors and document oversight, with CDOI specifically emphasizing compliance with CDOI standards.

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The specific differences between CDOI and NAIC lie in the legal basis, mandatory vs. non-mandatory compliance, specific reporting and testing requirements, and third-party oversight. CDOI is more prescriptive, while NAIC provides flexible guidance that depends on individual state adoption.

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Endnotes

1. Colorado Division of Insurance [CDOI Proposed Algorithm and Predictive Model Quantitative Testing Regulation](#) September 28, 2021.
2. Colorado Division of Insurance [CDOI regulation 10-1-1 Governance and Risk Management Framework Requirements for Life Insurers effective November 14, 2023](#).
3. Colorado Division of Insurance [Colorado Senate Bill SB21-169](#) 2021.
4. NAIC https://content.naic.org/sites/default/files/national_meeting/Materials-Att-3-2023-11-22-Model-Bulletin-NM-Draft_%20Clean.pdf, 2023.December 4.
5. NAIC https://content.naic.org/sites/default/files/national_meeting/Materials-Att-3-2023-11-22-Model-Bulletin-NM-Draft_%20Clean.pdf, 2023.December 4.