



June 5, 2025

Commissioner Michael Conway
Colorado Division of Insurance
1560 Broadway, Suite 850 Denver,
CO 80202

Dear Commissioner Conway,

On behalf of the American Academy of Actuaries'¹ (the Academy) Life Underwriting and Risk Classification Subcommittee (the Subcommittee), thank you for the opportunity to comment on the *DRAFT Proposed Amended Regulation Governance and Risk Management Framework Requirements for Life Insurers', Private Passenger Automobile Insurers', and Health Benefit Plan Insurers' Use of External Consumer Data and Information Sources, Algorithms, and Predictive Models*. The Subcommittee would also like to thank you for hosting the June 2 meeting to allow for further clarification of the proposed framework.

Overall, the Subcommittee supports Colorado's initiative to prevent unfairly discriminatory practices in insurance, and we have worked with the Academy's Health and Casualty Practice Councils to provide input.

Based on the discussions during the meeting and the questions you addressed, we have the following additional comments for your consideration:

Section 4.A.

The Subcommittee is concerned about the ambiguity of the definition for "adverse decision." Defining adverse decisions using "the most favorable treatment" language could create complexity since it could be interpreted many ways, particularly depending on area of practice and metric being measured as the following example demonstrate.

If speed is the metric being measured, not getting the fastest decision can be considered adverse via this definition. For example, in Life Underwriting, an applicant not getting an accelerated offer may be considered an adverse decision, even though they received a better risk class from a non-accelerated underwriting process.

¹ The American Academy of Actuaries is a 20,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. For 60 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

If financial impact to the customer is being measured, an applicant getting a less favorable risk class offer than the most preferred risk class (even though actuarially justified) may also be considered an adverse decision per this definition.

In claims adjudication, if both speed and financial impact are measured, not receiving fast, algorithmic claims approval (vs. a human-reviewed process) could be considered an adverse decision. A human-reviewed process could be beneficial in many cases such as when there is missing data, incomplete information, or follow-ups are needed.

The Subcommittee recommends Colorado clarifies the intent of the definition and revise or consider removing it considering the ambiguity we have outlined above. This is an important definition that warrants a broader discussion that the Subcommittee would be happy to participate in.

Section 4.I

Regarding the definition of “Insurer”, it is not clear that Health Maintenance Organizations (HMOs) are included in the meaning of “insurers.” To ensure a level playing field, we recommend clarifying whether the definition of “insurers” includes HMOs.

Section 5.A.5

The governance principles described in Section 5 apply to insurers. However, section 5.A.5 explicitly delegates responsibility for the decisions made when using algorithms or predictive models to providers acting on behalf of an insurer. It is not clear how a provider “acting on behalf of an insurer” is defined and how a provider may be different from a third-party vendor. Section 5.A.5 appears to be inconsistent with section 5.B, which requires insurers to remain responsible for ensuring the requirements of section 5.A are met even when using third party vendors. In addition, as drafted, section 5.A.5 could undermine the effectiveness of the governance and risk management framework. Therefore, we recommend deleting this paragraph.

Section 5.A.7.

We suggest replacing the phrase “correcting the information” with “correcting any inaccurate information.” We would also like to call out a potential discrepancy in the use of the word “carrier” vs. “insurer” used elsewhere in the document.

Additionally, we recommend that the justification of adverse decision not be considered on an individual case-by-case basis between the insurer and the customer, and instead, be agreed upon between the insurer and the regulators. There may be many ways to achieve this. For example, one way to accomplish this could be a framework that could be agreed upon between the carrier and the regulator on what counts as adverse decisions for the carrier’s specific area of operations.

Section 5.A.8.

We recommend including beneficiaries to the parties impacted by insurance practices (i.e., with reasonable consideration given to the insurance practices' impacts on applicants, policyholders, **beneficiaries**, or covered persons).

Section 5.A.9.

Please clarify what "statistical representativeness, data quality, data validity, and appropriateness" entails and what the responsibility of the insurer is. For example, in measuring statistical representativeness, it is unclear whether the insurer is expected to measure representation with respect to their own book of business, or target market.

Additionally, it is unclear whether it is the insurer's responsibility to test all sources, including governmental sources. For example, currently it could be interpreted that it is the insurer's responsibility to evaluate any court records data used in Life Underwriting for statistical bias, statistical representativeness, data quality, data validity, and appropriateness, even though bias in this data is well documented. One option to revise this point is to limit the responsibility of the insurer to data from non-governmental sources only.

We recommend that Colorado consider revising this definition due to the ambiguity we have outlined above.

Thank you for considering our comments. These are important issues to consider, and we would appreciate and look forward to an opportunity to participate in further discussions. If you have any questions or would like additional information about our comments, please contact Amanda Barry-Moilanen, life policy project manager (barrymoilanen@actuary.org).

Sincerely,

Kirsten Pedersen, MAAA, FSA
Chairperson, Life Underwriting and Risk Classification Subcommittee