

**NAPSLO Questions and Answers**  
**Implementation of National Association of Registered Agents and Brokers (NARAB)**  
**February 20, 2015**

On January 12, 2015, the National Association of Registered Agents and Brokers Reform Act of 2015 (NARAB) was enacted as part of the H.R. 26, the Terrorism Risk Insurance Program Reauthorization Act of 2015. NAPSLO strongly supported the creation of NARAB and advocated for its passage before Congress for the last several years.

The industry has long sought uniformity for multistate licensing. NAPSLO, as a strong supporter of the state based insurance system, advocated for NARAB because it implements a national standard but maintains the broker's individual home state's authority in the resident licensing.

What we know at this time about NARAB is limited to what was adopted in the law. Below are answers to many common questions and concerns about NARAB. As information becomes available, we will update this page and provide any helpful resources we become aware of or develop.

NAPSLO is committed to keeping our members informed during the implementation process period and will represent the perspective of the surplus lines licensee whenever we have the opportunity. If you have any questions about NARAB and the anticipated implementation of it, please send them to [Keri Kish](#), NAPSLO Director of Government Relations.

**1. What will NARAB do?**

NARAB will be a new regulatory agency formed in the District of Columbia as an independent, nonprofit corporation and regulatory body, licensing agents and brokers, including surplus lines brokers, who wish to obtain approval to operate outside their "home states." An individual or entity licensed in their home state can obtain nationwide licensing by becoming a "member" of NARAB, which will eliminate the need for insurance producers to apply for individual nonresident licenses, but will preserve important state regulatory authority and consumer protections.

NARAB will provide a national streamlined process for nonresident insurance producer licensing, which will significantly reduce the administrative process of applying for and complying with non-uniform licensing qualifications and administrative requirements state by state. Instead, there will be a national clearinghouse through which licensing, continuing education and other nonresident qualification requirements and conditions will be applied on a multistate basis. The national clearinghouse will provide a single point of filing for eligible insurance producers and enable a much more efficient process for obtaining a multistate producer license.

NARAB preserves the individual states' rights regarding:

- licensing, continuing education, and other qualification requirements of insurance producers that are not members of the Association;
- resident or nonresident insurance producer appointment requirements;
- supervising and disciplining resident and nonresident insurance producers;
- establishing licensing fees for resident and nonresident insurance producers so that there is no loss of insurance producer licensing revenue to the State; and
- prescribing and enforcing laws and regulations regulating the conduct of resident and nonresident insurance producers.

NARAB also preserves state disciplinary authority, such that nothing within NARAB's definition of prohibited state actions may be construed to prohibit a state from investigating and taking appropriate disciplinary action, including suspension or revocation of authority of an insurance producer to do business in a state, in accordance with state law and that is not inconsistent with the provisions of NARAB, against a NARAB member as a result of a complaint or for any alleged activity, regardless of whether the activity occurred before or after the insurance producer commenced doing business in the state pursuant to NARAB membership.

## **2. How will NARAB be governed?**

NARAB will be governed by a Board of Directors comprised of state insurance regulators and industry representatives.

## **3. Who will be on the Board of NARAB?**

The President, with the advice and consent of the U.S. Senate, will appoint 13 Board members. Of the 13 members, eight will be state insurance commissioners, one of whom shall be designated as the Board's President. Three of the Commissioners will have demonstrated expertise with property and casualty insurance producer licensing and two shall have demonstrated expertise with life or health insurance producer licensing. The five remaining members of the Board will be selected from the insurance industry, and similarly, three shall have demonstrated property and casualty licensing experience and two shall have demonstrated life or health insurance licensing experience.

An important element of "demonstrated licensing expertise" will be expertise in the mechanics of the licensing process and the day to day challenges facing producers operating in multiple or all states.

## **4. How are the members of the Board appointed by the President?**

The National Association of Insurance Commissioners (NAIC) will provide the President with recommendations for the eight state insurance commissioner positions. If the President does not accept the recommendations he may appoint another current insurance commissioner. After he exhausts the list of commissioners currently in office, he has the authority to appoint former insurance commissioners.

Representation from the industry is not as well defined in the statute. The law allows the President to request recommendations for the industry positions but is silent on how he is to initially identify the industry members. NAPSLO believes it is important that the perspective of the surplus lines industry is represented.

## **5. What will it mean to have Membership in NARAB?**

If you are approved to be a member of NARAB, you will be allowed to operate as a nonresident insurer producer (agent/broker) in any state you elect in accordance with the rules and requirements established by NARAB and upon payment of appropriate fees.

## **6. How will I qualify for membership in NARAB?**

You must be licensed and in good standing in your home state to be eligible to apply for membership in NARAB. If your license has currently been suspended or revoked by a state regulator, you will be deemed ineligible for application; however, if your license is reinstated, reissued or if the suspension is vacated or expires, you will then become eligible for application.

**7. Does NARAB apply to surplus lines broker nonresident licenses?**

Yes, the federal law specifically includes surplus lines brokers in the definition of insurance producer and therefore surplus lines brokers will be eligible for membership in NARAB.

**8. Why would I decide to be a member of NARAB?**

If you only operate in your home state, you probably will not initially be interested in becoming a NARAB member. However, if you wish to operate on a multistate basis, you will want to strongly consider becoming a NARAB member. NARAB will significantly improve the multistate licensing process and simplify the administrative process of applying for and complying with the non-uniform licensing qualifications and variations in administrative processes state by state.

**9. When will I be able to apply to become a member of NARAB?**

The law specifies that the NARAB Board of Directors shall be appointed by the President within 90 days of its enactment. An initial meeting of the Board shall be held within 45 days of the Board's appointment. However, the timeline for creating and incorporating the Association, developing membership criteria and requirements, funding its operations and establishing the national clearinghouse, among other important next steps, will take time. A reasonable expectation is that we are at least two years from the issuance of NARAB licenses.

Activities in this organizational period will include, but is not limited to:

- Establishing bylaws, and operating procedures;
- Development of membership criteria to include continuing education and professional experience requirements, among others;
- Development of application requirements and processes for disciplinary actions procedures;
- Establishing funding and setting license fee structures that support its operations; and
- Development of the national clearinghouse.

**10. Do I have to participate as a member of NARAB to do business as a nonresident licensee?**

No. If you prefer to apply through a state's nonresident licensing procedures directly, you may continue to do so.

**11. What fees will I pay to be a member of NARAB?**

The NARAB board of directors will establish and collect NARAB membership fees in order to cover the costs of its operations. It is important to remember that NARAB will not affect the rights of the states to establish licensing fees for resident and nonresident insurance producers, and it is recognized that NARAB is designed so that there is no loss of insurance producer licensing revenue to the states. Effectively, with the addition of a NARAB membership fee, the national clearinghouse will facilitate the selection of any nonresident state and payment of the requisite nonresident states' licensing fees in one

online transaction. NARAB prohibits states from imposing any fee upon a member of NARAB that differ from those required to be paid to the state were the producer not a member of NARAB.

**12. Will I pay less in nonresident licensing fees as a member of NARAB?**

No. The law specifically states that NARAB will not impact insurance producer licensing revenue for the individual states. Although you will remain responsible for paying the fees for each state where you wish to do business, a significant benefit of membership is that these fees will be paid in one transaction through the national NARAB clearinghouse.

**13. Can an individual state require me to have a nonresident license if I am a member of NARAB? Can states charge less to go through them directly to become a nonresident license than through NARAB?**

No. States are prohibited from requiring you to have a specific nonresident license for their state if you are a member of NARAB. States are also prohibited from charging a different fee to a producer seeking a nonresident license, whether directly through the state or through NARAB.

NARAB prohibits certain actions by the states including:

- impeding the activities of, take any action against, or apply any provision of law or regulation arbitrarily or discriminatorily to, any insurance producer because that insurance producer or any affiliate plans to become, has applied to become, or is a member of NARAB;
- imposing any requirement upon a member of NARAB that it pay fees different from those required to be paid to that state were it not a member of NARAB; or
- imposing any continuing education requirements on any nonresident insurance producer that is a member of NARAB.

NARAB also prohibits any state, other than the home state of a NARAB member, from:

- imposing any licensing, personal or corporate qualifications, education, training, experience, residency, continuing education, or bonding requirement upon a NARAB member that is different from the criteria for
- membership in the Association or renewal of such membership;
- imposing any requirement upon a member of NARAB that it be licensed, registered, or otherwise qualified to do business or remain in good standing in the state, including any requirement that the insurance
- producer register as a foreign company with the secretary of state or equivalent State official;
- requiring that a NARAB member submit to a criminal history record check as a condition of doing business in the state; or
- imposing any licensing, registration, or appointment requirements upon a NARAB member, or require a NARAB member to be authorized to operate as an insurance producer, in order to sell, solicit, or negotiate insurance for commercial property and casualty risks to an insured with risks located in more than one state, if the NARAB member is licensed or otherwise authorized to operate in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state.

**14. If I am accepted as a member of NARAB, will I automatically be able to do business in all of states?**

Operating on a nationwide basis is not automatic with membership in NARAB. You must indicate to NARAB which states you intend to operate in and pay the appropriate state fees for those individual states before conducting business there.

**15. Will there be specific classes or categories of licenses?**

NARAB will be allowed to establish separate classes of membership with separate criteria if it reasonably determines that performance of different duties requires different levels of education, training, experience or other qualifications. Separate categories for insurance producers, based on types of licensing categories already established under current state laws, will be permitted and may be determined and established by the Board.

**16. How will Business Entities be handled by NARAB?**

Business entities will be established as a specific class for membership purposes in NARAB. Business entities that apply for membership shall be required to designate an individual that is a member of NARAB as the responsible member for compliance of the business entity with NARAB standards and the insurance laws, standards and regulations of any state in which the business entity conducts business.

**17. Can I obtain my resident license through NARAB?**

No, NARAB is intended to address nonresident licensing only.

**18. How will the licensing process for NARAB work?**

A Board comprised of regulators and industry representatives will establish membership qualifications, application requirements and a licensing process for “membership” in NARAB. There will be rigorous standards and ethical requirements for licensing, continuing education and nonresident insurance producer standards for agents and brokers that desire to operate on a multistate basis.

The NARAB Board will establish a national clearinghouse to receive membership applications and fees. The Board may create its own centralized clearinghouse or utilize the NAIC or another appropriate entity (i.e., the National Insurance Producer Registry).

**19. How often will my membership in NARAB renew?**

Your NARAB membership will be renewed every two years (biennial).

**20. Will I have to submit to a criminal background check?**

Yes. The Board will establish the process and requirements for a background check and in accordance with the federal requirements established by the U.S. Attorney General. However, many states require background checks. If your home state requires a criminal background check and you have submitted to one within the last two years, you may be exempt from undergoing NARAB’s background check as part of the membership application process. Criminal history background checks will be conducted through the Federal Bureau of Investigations (FBI) upon request of NARAB and will require fingerprinting.

**21. Will I be subject to any fees for the criminal background check?**

Yes, there will be a fee established by NARAB for the criminal background check associated with their process and procedures to obtain and maintain the data securely and confidentially. There will be a separate fee for the costs assessed by the Attorney General/FBI.

**22. Will I have to do continuing education for NARAB as well as all my nonresident states?**

NARAB will have established continuing education (CE) requirements to maintain membership. You will not be required to satisfy the CE requirements for any state other than your home state in addition to the CE requirements of NARAB. Further, if your home state has the same or duplicative CE requirements as NARAB, you will be deemed to have satisfied the CE requirements for NARAB if you have been deemed to satisfy them for your home state.

**23. Once I am issued my membership in NARAB, what do I do with all of my current nonresident licenses?**

This is an important question and we are not exactly sure how you will handle this initially, but we anticipate this will be addressed during the development of NARAB procedures.

**24. Can I place a line of business in a state if I am not approved for that line of business in my home state?**

The law contemplates that you will only be approved to do business in nonresident states for those lines of business you are authorized to place in your home state.

**25. Will states have authority to comment on my NARAB membership application?**

Yes. Once NARAB has determined you qualify for membership, they will notify state insurance regulators and the NAIC that you have satisfied the membership criteria. The states and NAIC shall have 10 business days after the date of notification to provide evidence that you do not satisfy the criteria for membership.

**26. How will the states and NAIC know that I am a NARAB member?**

NARAB is required to immediately notify the states and the NAIC when your membership becomes active and to disclose all of the states you are authorized to operate in as a NARAB member. In turn, the states and the NAIC must immediately notify NARAB when you are no longer authorized to operate in one or more states.

**27. Will NARAB be allowed to take disciplinary action against my membership?**

NARAB may place any member on probation or suspend or revoke your membership if:

1. You fail to meet any of the NARAB membership criteria;
2. You have been subject to disciplinary action pursuant to a final adjudicatory proceeding by a state insurance regulator;
3. Your license has been suspended or revoked by a state insurance regulator; or

4. You have been convicted of a crime that would have resulted in the denial of your membership at the time of application.

**28. Can I be fined or penalized as a NARAB member?**

Yes, the Association has the authority to investigate alleged violations of NARAB's standards. In addition to possibly revoking your membership, you may be fined or penalized as deemed appropriate by NARAB's established procedures. NARAB will immediately notify state insurance regulators and the NAIC if they have taken any adverse actions against your membership.

**29. What happens to me if there is a consumer complaint?**

NARAB will refer all consumer complaints against members to the state insurance regulator where the consumer resides and to any other state insurance regulator deemed appropriate. These procedures and standards will be established by the Board.

**30. I am subject to 18 USC 1033 of the Violent Crime Control and Law Enforcement Act of 1994. Does this mean if I become a NARAB member, I no longer have to apply for a 1033 approval with a state?**

No. If you are subject to applying for a 1033 exception due to an applicable prior conviction, you will continue to be responsible for the 1033 application as required by each state.