# The National
# Predictive Modeling Summit

## 2.01 Basics and Administrative Track:
## Legal Review of Obtaining Data Testing and Using New Models in Production

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<u>**Presented by:**</u>
**Patrick J. Hatfield**
**Bruce W. Foudree**
LOCKE LORD BISSELL & LIDDELL LLP

# OBJECTIVES OF SESSION

- Share lessons learned

- Help you avoid surprises at end of planning phase - "Hey, maybe we should run this by Legal before launching?"

- Explain a few general legal constraints in:
  - gathering data
  - defending new underwriting rules

- Q&A at end, but please ask as we go

# Typical Scenario

- Company owns data gathered from its clients: from applications for coverage, additional data from third parties, and claims related data

- Company wants to explore new predictive models which:
  - involves obtaining new data from third parties
  - mining data from company's clients
  - will be validated by applying new model with new data to existing clients, to then compare predictions with reality

- Once model validated, company wants to model in production

# 3 Broad Categories of Laws

Problems in any category may be fatal

- Category 1 - rules governing data gathering and analysis
- Category 2 - rules governing what models are good enough to use in production
- Category 3 - rules governing fairness and requiring actuarial basis or justification

# Data Gathering Phase

- Various laws govern (GLBA, HIPAA, FCRA, other state privacy / information handling statutes) data gathered for one purpose (eligibility for coverage initially) which is then sought to be used for a different reason

- Data gathered for one purpose but which is to be re-disclosed for a different reason, such as re-disclosure to a third party to develop the model

- Obtaining new information for existing clients, such as requesting a new Rx report for an existing insured

# Data Gathering Phase

- Various contracts govern (service agreements with data providers such as Consumer Reporting Agencies, which includes MIB)
  - use of data for other than "permissible purposes" as defined in the contracts
  - re-disclosure to third parties
  - obtaining new information

# Data Gathering Phase

- Other "undertakings" by the company may govern the activities described above as well:
  - privacy policies / statements published generally or provided specifically to clients, including websites
  - assurances in applications, consents and authorizations obtained in the new business phase

# Data Gathering Phase

- Associating data possessed by a company to the particular governing law, contract or "undertaking" may be difficult

- Risks of not understanding all the terms governing particular data are high

- Practically, it may be too risky, expensive and time consuming to appropriately complete the analysis of which data is governed by which terms

# De-Identification Process

- The risk of not properly evaluating all of the terms and conditions associated with each data element can be mitigated by using an effective de-identification process

- De-ID process uses some type of coding method that prevents any unauthorized person from associating any

  sensitive / protected data to a particular person

- De-ID process can be used to share aggregated data with third parties without violating privacy rules

- There is some legal guidance on the critical elements of an effective De-ID process

# Data Gathering - Lessons

- Identify types of data to be gathered, internally or externally
- For each category of data, assess the applicability of the following:
  - privacy laws
  - contracts with sources of the data
  - other undertakings
- If not confident in the results of the above, prepare De-ID process that satisfies privacy laws, contracts and other undertakings
- Test the De-ID process for data gathered internally and externally and for how new data will be gathered for the study
- Adjust data gathering process and details of De-ID process
- Not understanding how the De-ID process must work in practice until late in the process can be extremely expensive - get to this point as early as possible

# Putting New Model Into Production

- Assuming new model is validated using sound

  testing / statistical techniques and the company is ready to put the model into production, next challenge is to make sure data supporting the predictability of the model is sufficient

- There are laws governing what "sufficient" means

- There are laws governing what data may not be used, in some instances, regardless of how tight the correlations may be

# Production and Implementation Phase

- State laws prohibiting limited geographic implementation
  - redlining
- State laws requiring fairness and prohibiting unfair discrimination
  - insurance trade practices
- State laws imposing standards in rating, such as actuarial soundness
- Additional examples of state laws potentially applicable to the use of predictive modeling in the business of insurance

# Lessons

- Understand the legal landscape at the beginning of the process because doing so may change the methodology early in the process

- Don't assume third parties will be permitted to provide the data sought

- Consider who owns or has rights to use the methodologies for gathering the data, examining the data, the model developed and any related know-how

# Questions? Answers!

**Patrick J. Hatfield**
Locke Lord Bissell & Liddell LLP
Office:  404.870.4643
phatfield@lockelord.com

**Bruce W. Foudree**
Locke Lord Bissell & Liddell LLP
Office:  312.443.1830
bfoudree@lockelord.com