**NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
SUMMER MEETING REPORT
BURLINGTON, VERMONT
JULY 6 - 9, 2000**

The following is a report on the National Conference of Insurance Legislators (NCOIL) Summer Meeting in Burlington, Vermont, held from July 6 through 9, 2000. More than 230 state legislators, insurance regulators, and industry and media representatives attended the meeting.

This report highlights significant committee and subcommittee actions, general session discussions, and hearing activities at the Summer Meeting.

**SYNOPSIS**

At the Summer Meeting, NCOIL legislators:

* established an Executive Committee Task Force on Privacy;
* adopted a resolution in support of the uniformity and reciprocity provisions of the National Association of Insurance Commissioners (NAIC) Producer Licensing Model Act;
* adopted a resolution to establish a special task force to review and make recommendations to streamline the state regulation of insurance for the 21st century;
* held a hearing on a draft NCOIL Mental Health Parity Model Act;
* held a hearing on a PricewaterhouseCoopers final report for the Insurance Legislators Foundation (ILF) Insurance Market Conduct Examination Public Policy Review;
* adopted an NCOIL Structured Settlement Transfers Protection Model Act;
* adopted a resolution that calls upon OSHA to leave workers’ compensation issues to the purview of state authorities; and
* participated in discussions on proposed insurance regulatory reforms in the wake of Gramm-Leach-Bliley, financial privacy regulation and legislation, and the high cost of pharmaceuticals in the U.S.

**ISSUE OVERVIEW**

At the committee meetings and general sessions, legislators listened to presentations, participated in discussions, and/or adopted resolutions and model laws on the topics listed below.

**EXECUTIVE COMMITTEE**

1. Adoption of NCOIL Resolution Establishing an Executive Committee Task Force to Review State Regulation of Insurance

2. Establishment of Executive Committee Task Force on Privacy

**HEALTH INSURANCE**

3. Report on Barriers to Alcohol Screening

4. Hearing on NCOIL Draft Mental Health Parity Model Act

5. Consideration of NCOIL Resolution on Antitrust Exemptions for Independent Health Care Providers

6. Discussion on Reducing the Cost of Pharmaceuticals

**INTERNATIONAL INSURANCE**

7. Update on International Accounting Standards

8. Update on International Trade Negotiations

9. Discussion on Reinsurance and International Implications

**LIFE INSURANCE**

10. Discussion on NCOIL Draft Viatical Settlements Model Act

11. Discussion on NAIC Replacement of Life Insurance & Annuities Model Act

12. Update on Long-Term Care Issues

**PROPERTY-CASUALTY INSURANCE**

13. Discussion on Uninsured Motorist Insurance

14. Report of the Subcommittee on Natural Disaster Insurance Legislation

15. Update on Commercial Lines Deregulation

16. Discussion on Personal Lines Deregulation

**STATE-FEDERAL RELATIONS**

17. Update on State and Federal E-Commerce Legislation

18. Report on Privacy Issues

19. Update on NARAB/NAIC Producer Licensing Model Act

20. Adoption of NCOIL Resolution on NAIC Producer Licensing Model Act

21. Discussion on State Responses to Federal Encroachment

22. Discussion on How States Can Meet the Privacy Challenge

**WORKERS' COMPENSATION INSURANCE**

23. Report on Workers’ Compensation Insurance Rates and Trends

24. Adoption of NCOIL Resolution Concerning OSHA Ergonomics Standards

25. Adoption of NCOIL Model Structured Settlement Transfers Protection Act

**OTHER ISSUES**

26. Reports on Insurance Fraud Issues

27. Hearing on ILF Insurance Market Conduct Examination Public Policy Review

28. Insurance Legislators Foundation Board Meeting

1. Adoption of NCOIL Resolution Establishing an Executive Committee Task Force to Review State Regulation of Insurance

The NCOIL Executive Committee unanimously adopted a resolution to establish a special task force to review and make recommendations to streamline the state regulation of insurance for the 21st century. NCOIL has not yet determined Task Force membership. Interested legislators should contact the NCOIL National Office at (518) 449-3210. The resolution is now available on the NCOIL Web site at www.ncoil.org.

2. Establishment of Executive Committee Task Force on Privacy

NCOIL President Dep. Spkr. Clare Farragher (NJ) appointed an Executive Committee Task Force on Privacy. The Task Force is charged with reviewing current state legislative proposals on privacy and recommending a course of action for NCOIL. Legislators will vote on the recommendation this November at the NCOIL Annual Meeting in New Orleans. The members of the Task Force comprise the NCOIL President, Vice President and Chairs of NCOIL Committees involved in privacy issues. They include: Dep. Spkr. Farragher, who will serve as Chair, Rep. Terry Parke (IL), Rep. Shirley Bowler, (LA), Sen. Edward Oliver (MN), Sen. Neil Breslin (NY), and Rep. Mark Young (VT).

3. Report on Barriers to Alcohol Screening

The Health Insurance Committee heard a report on the costs of trauma, the importance of alcoholism interventions, and alcohol and trauma recidivism. Legislators learned that it was important for doctors in emergency rooms to screen patients for blood alcohol in order to be able to provide appropriate care and after-treatment. They learned that hospitals often did not conduct alcohol screening because they were frequently not reimbursed for treatment of injuries resulting from alcohol related trauma.

4. Hearing on NCOIL Draft Mental Health Parity Model Act

The NCOIL hearing on the NCOIL draft Mental Health Parity Model Act consisted of four panels. Panel speakers included: mental health advocates, insurers, providers and regulators. Panel speakers discussed specific disorders to include in proposed mental health parity legislation and the estimated cost to interested parties in implementing mental health parity coverage.

After the hearing, the Health Insurance Committee decided to draft a model act that would mandate full parity and cover employers with more than 50 employees. Legislators further decided to define a mental disorder as a broad-based compilation of mental, nervous and emotional conditions and include alcohol and substance abuse problems. Legislators will vote on the revised draft model at the NCOIL Annual Meeting.

5. Consideration of NCOIL Resolution on Antitrust Exemptions for Independent Health Care Providers

Following comments from representatives of the American Medical Association (AMA) and the American Association of Health Plans (AARP), the Health Insurance Committee tabled the proposed NCOIL Resolution on Antitrust Exemptions for Independent Health Care Providers. Legislators decided to consider the cost and quality impacts of antitrust exemption legislation before taking any further action.

6. Discussion on Reducing the Cost of Pharmaceuticals

Legislators participated in a panel discussion on how regulation might reduce the rising costs of prescription drugs. Speakers addressed the benefits and cost values of generic drugs, the reasons for the high costs of new drugs, “quality-of-life” issues, drug formularies, and disclosures on prescriptions in public and private health care plans. Panel speakers included: Dr. Stephen Schondelmeyer of the University of Minnesota; Dr. John Golenski of the Rx Value Project; Dr. John Matthew of the Health Center; and Rep. Paul Poirier (VT) of the New England Pharmaceuticals Compact.

7. Update on International Accounting Standards

Legislators learned that the International Accounting Standards Board (IASB) had reorganized and would meet more frequently than it had in the past. They also learned that the International Monetary Fund (IMF) was considering a requirement for foreign countries to have a standardized set of financial rules and accounting standards prior to receiving any IMF funds.

8. Update on International Trade Negotiations

Legislators learned that Rep. Counts (TX), Chair of the International Insurance Issues Committee, and two NCOIL staff members attended a preliminary Transatlantic Economic Partnership (TEP) meeting in Washington, D.C. Rep. Counts informed legislators that he met with European Union (EU) representatives, Insurance Department staff, and members of the Office of the U.S. Trade Representative (USTR) to discuss international insurance law and regulation. Legislators learned that NCOIL would continue monitoring the TEP trade negotiations and that the next meeting would take place later in the summer in Belgium.

9. Discussion on Reinsurance and International Implications

Legislators learned that the International Association of Insurance Commissioners (IAIS) was seeking an international reinsurance system of mutual recognition. They heard that foreign reinsurers prefer to obtain just one license in the U.S. and be able to operate freely in all jurisdictions. Legislators also learned that the IAIS was seeking removal of the U.S. collateral requirement for foreign reinsurers

10. Discussion on NCOIL Draft Viatical Settlements Model Act

The NCOIL Life Insurance Committee reviewed industry recommendations on the language and content of the NCOIL draft Viatical Settlements Model Act. Legislators agreed to work with staff, industry representatives and other interested parties in preparation of a final draft leading to a vote at the NCOIL Annual Meeting in New Orleans. Sen. Geller (FL), Chair of the Viatical Settlements Subcommittee, asked interested parties to plan on meeting in September to revise the model.

11. Discussion on NAIC Replacement of Life Insurance & Annuities Model Act

The Life Insurance Committee discussed the NAIC Replacement of Life Insurance & Annuities Model Act. Legislators learned that the American Council of Life Insurance (ACLI) and the National Association of Insurance & Financial Advisors (NAIFA) were in support of the NAIC model. The ACLI and NAIFA saw it as a positive consumer regulation. Legislators voiced concerns about specific language in the model, as well as about replacement insurance practices in general. The Committee agreed to further discuss the issue at the November NCOIL Annual Meeting in New Orleans.

12. Update on Long-Term Care Issues

Legislators learned that 20 states had adopted a tax credit for long-term care insurance. They also learned that the NAIC, consumer representatives and the insurance industry had finally agreed on amendments to the NAIC long-term care model regulation to address the problem of rising rates in long-term care insurance.

13. Discussion on Uninsured Motorist Insurance

Legislators in the Property-Casualty Insurance Committee discussed a proposal to abate the number of uninsured motorists. Legislators heard a report on the California Automobile Assigned Risk Plan and the AIA proposed “mini-policy.” Legislators learned that the mini-policy comprises a lower threshold for coverages, but that it would appeal to lower-income drivers who are otherwise uninsured motorists.

14. Report of the Subcommittee on Natural Disaster Insurance Legislation

Legislators discussed cost issues associated with proposed federal legislation concerning natural disaster insurance and catastrophe reserve funds. Legislators received updates on H.R. 21, the Homeowners’ Insurance Availability Act; H.R. 2749, the Policyholder Disaster Protection Act; and state catastrophe reserve funds. Legislators learned that three states had catastrophe reserve funds: Florida, Hawaii, and California.

15. Update on Commercial Lines Deregulation

Legislators learned that 19 states had enacted commercial lines deregulation legislation. Legislators reviewed a handout that compared the NCOIL commercial lines deregulation model with the NAIC model and the American Legislative Exchange Council (ALEC) model. They also reviewed a handout that compared the deregulation criteria in the 19 states with enacted laws. Legislators learned that the criteria used in the three models and enacted in the 19 states were different.

16. Discussion on Personal Lines Deregulation

Legislators heard a report on the personal lines provisions of the ALEC Property/Casualty Insurance Modernization Model Act. Legislators also received comments in support of the ALEC model from representatives of the AIA and the National Association of Independent Insurers (NAII). Legislators agreed to consider personal lines deregulation at the NCOIL Annual Meeting in November.

17. Update on State and Federal E-Commerce Legislation

Legislators learned that Congress had enacted, and President Clinton signed into law, S. 761, the Millennium Digital Commerce Act. Legislators learned that the law would allow insurance consumers and businesses to sign insurance contracts online when agreements existed between the insurance company and the consumer. They learned that S. 761 would also allow insurance companies to retain records in an electronic format.

18. Report on Privacy Issues

Legislators heard reports on the status of state and federal legislation concerning financial, health and electronic commerce privacy legislation. Legislators learned that federal authorities had issued a single set of regulations that covered personally identifiable financial information bits (those elements of information provided by the consumer). Legislators also learned that the NAIC was working on two separate interim regulations for privacy: health and financial. The NAIC anticipates completion of the interim regulations by September of this year.

19. Update on NARAB/NAIC Producer Licensing Model Act

Legislators heard a report on the status of the National Association of Registered Agents and Brokers (NARAB) provision of the Gramm-Leach-Bliley (GLBA) financial modernization legislation enacted by Congress last fall. Legislators learned that three states had enacted producer licensing legislation with the uniformity or reciprocity provisions necessary to comply with the GLBA. They also learned that the NAIC was tracking introduction of producer licensing legislation in each state.

20. Adoption of NCOIL Resolution on NAIC Producer Licensing Model Act

Legislators learned that at least 29 states needed to enact the uniformity or reciprocity provisions of the NAIC Producer Licensing Model Act in order to prevent NARAB from taking effect. Legislators listened to comments from the NAIC and various industry representatives on the NAIC model. Legislators unanimously adopted an NCOIL resolution in support of the uniformity and reciprocity provisions in the NAIC Producer Licensing Model Act. The resolution is now available on the NCOIL Web site at www.ncoil.org.

21. Discussion on State Responses to Federal Encroachment

Legislators participated in a panel discussion on state responses to federal encroachment in the financial modernization legislation (GLBA) enacted by Congress last fall. Legislators heard reports from: Mr. Thomas English of the New York Life Insurance Company, who spoke on the ACLI’s proposal to study a dual regulatory system; Mr. Jim Schacht of PricewaterhouseCoopers, who spoke on the use of interstate compacts as a means of achieving uniformity and retaining state sovereignty over the regulation of the business of insurance; and Commissioner Glenn Pomeroy of North Dakota, who spoke on how to modernize the existing state-based regulatory system by use of a state-based national charter system. 22. Discussion on How States Can Meet the Privacy Challenge

22. Discussion on How States Can Meet the Privacy Challenge

Legislators participated in a panel discussion on financial privacy regulations and legislation in the wake of GLBA. Legislators heard industry and regulatory perspectives on financial privacy regulation. Panel speakers included: Mr. Allen Caskie of the Financial Services Coordinating Council (FSCC); Commissioner Elizabeth Costle of Vermont; and Mr. Kevin Rampe of the New York State Department of Insurance.

23. Report on Workers’ Compensation Insurance Rates and Trends

Legislators heard reports from industry representatives on the status of workers’ compensation rates and trends. Legislators learned that since 1990, the frequency of job-related accidents had dropped 24 percent, while the severity of claims had risen 15 percent. Legislators learned that specific economic, work environment and demographic variables influenced loss costs and the frequency of workers’ compensation claims. They learned that higher real wages, higher unemployment rates, fewer high-risk workers in the total labor force, managed care programs, and fraud prevention programs lower the frequency of claims.

24. Adoption of NCOIL Resolution Concerning OSHA Ergonomics Standards

Legislators unanimously adopted a resolution that calls upon the Occupational Safety and Health Administration (OSHA) to leave workers’ compensation issues to the purview of state authorities. Legislators learned that the proposed OSHA program standard on ergonomics would require an employer to continue employing an employee with a musculoskeletal disorder (MSD) in a modified work environment and continue paying 100 percent of the employee’s salary and benefits. They learned that if an employee was unable to work, the OSHA standard would require the employer to pay the injured employee 90 percent of salary and 100 percent of benefits. Legislators learned that the estimated cost of implementation could vary from OSHA’s $4.2 billion estimate to the Small Business Association’s $14 billion estimate. The resolution is now available on the NCOIL Web site at www.ncoil.org.

25. Adoption of NCOIL Model Structured Settlement Transfers Protection Act

Legislators adopted the NCOIL Structured Settlement Transfers Protection Model Act. The purpose of the model, which would apply to all structured settlement transactions except those related to workers’ compensation, is to protect structured settlement recipients involved in the process of transferring structured settlement payment rights. The model provides conditions for a structured settlement recipient to legally transfer future payment rights. It requires a court of competent jurisdiction or responsible administrative authority to issue advance authorization in a final order before a transfer can take effect. In making its final order, the court must consider the best interests of and any anticipated hardship for the payee and the payee’s dependent(s). The model requires disclosure of the present value of factored payments, any fees deductible from the proceeds, the net amount of proceeds, and any potential penalty amounts. It requires that the payee receive or waive independent professional advice. The Model Act is now available on the NCOIL Web site at www.ncoil.org.

26. Reports on Insurance Fraud Issues

Legislators received a report from the Coalition Against Insurance Fraud (CAIF) on the NAIC viatical settlements fraud provisions. Legislators learned that the NAIC was updating its model by adding provisions from its Anti-Fraud Model. Legislators learned that the model would be completed in December.

Legislators also learned that the National Health Care Anti-Fraud Association recently released its model health care fraud insurance law. They learned that Delaware enacted a specific health insurance fraud law this year as well.

27. Hearing on ILF Insurance Market Conduct Examination Public Policy Review

The Insurance Legislators Foundation (ILF) held a hearing on the PricewaterhouseCoopers report entitled, Insurance Market Conduct Examination Public Policy Review. Legislators received testimony on what individual state insurance departments are doing in response to issues raised in the report; and what issues and areas of the market conduct examination process could merit further study.

28. Insurance Legislators Foundation Board Meeting

PricewaterhouseCoopers submitted its final report to legislators at the ILF Board Meeting on Friday, July 7. Among other items, the report found that there is wide disagreement on the purpose of market conduct examinations. It found that interested parties question whether examinations should focus on general business practices or strictly on specific violations of law. The report also found that a significant percentage of state insurance departments have no separate unit for or staff dedicated to market conduct examinations or regulation and that there is a significant discrepancy in the training of examiners on a state-by-state basis.

The ILF Board will review the final report and the hearing testimony before deciding what further action it might take on market conduct examinations.

The ILF Board also entertained discussion on a new proposed study. Legislators agreed to continue considering a proposal for the preparation and publication of a comprehensive analysis of the Interstate Insurance Receivership Compact’s Uniform Receivership Law. Lamson, Dugan & Murray, LLP of Omaha, Nebraska and Alpharetta, Georgia would undertake the study.

NCOIL resolutions, model acts, and minutes from the Summer Meeting will be available on the NCOIL Web site at: HYPERLINK http://www.ncoil.org www.ncoil.org by August 18, 2000.

If you would like to receive additional information regarding any of the issues discussed below, please do not hesitate to contact the NCOIL National Office at (518) 449-3210.

For more information please sign our [guestbook](http://www.ncoil.org/resources/guestbook.html).

