

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS  
HEALTH, LONG-TERM CARE & HEALTH RETIREMENT ISSUES COMMITTEE  
BOSTON, MASSACHUSETTS  
JULY 21, 2006  
MINUTES

The National Conference of Insurance Legislators (NCOIL) Health, Long-Term Care & Health Retirement Issues Committee met at the Boston Park Plaza Hotel and Towers in Boston, Massachusetts, on Friday, July 21, 2006, at 8:00 a.m.

Rep. George Keiser of North Dakota, chair of the Committee, presided.

Other members of the Committee present were:

Sen. Joseph Crisco, CT	Sen. Pam Redfield, NE
Rep. Pat Patterson, FL	Rep. Donald Flanders, NH
Sen. William R. Haine, IL	Sen. Carroll Leavell, NM
Rep. Michael Ripley, IN	Sen. William J. Larkin, Jr., NY
Sen. Ruth Teichman, KS	Sen. Harvey Tallackson, ND
Rep. Ronald Crimm, KY	Rep. Robert Godshall, PA
Rep. Robert R. Damron, KY	Rep. Brian P. Kennedy, RI
Rep. Susan Westrom, KY	Sen. Ann Cummings, VT
Sen. Alan Sanborn, MI	Rep. Virginia Milkey, VT
Sen. Bob M. Dearing, MS	Del. Harvey Morgan, VA

Other legislators present were:

Rep. Richard Laird, AL	Sen. Duane Mutch, ND
Sen. Ralph Hudgens, GA	Rep. Warren F. Kitzmiller, VT
Rep. Peter Koutoujian, MA	Rep. Mark Young, VT
Rep. Daniel Foley, NM	Del. Kenneth D. Tucker, WV
Sen. Neil Breslin, NY	Sen. Dan Kapanke, WI
Assem. Ivan Lafayette, NY	

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director  
Candace Thorson, NCOIL Deputy Executive Director  
Mike Humphreys, NCOIL Director of Legislative Affairs & Education,  
Life, Health, and Workers' Compensation Insurance Committees

#### MINUTES

The Committee voted unanimously to approve the minutes of its February 23, 2006, meeting in Weston, Florida.

## STATE HEALTH CARE REFORM

Rep. Koutoujian overviewed recently enacted health care reform (H. 4479, *A Bill Promoting Access to Affordable, Quality, Accountable Health Care*) in Massachusetts that, he said, was the product of compromise between the Governor, Senate President, and House Speaker. He noted that Massachusetts has approximately 585,000 uninsured, representing 7.5 percent of the population. He suggested that the number of uninsured was due to an erosion of employer-sponsored insurance and rising health care costs.

Rep. Koutoujian said that individual responsibility was central to the health care plan. He said that under H. 4479 all Massachusetts residents are required to have coverage by July 1, 2007, and must document their coverage on income tax forms by April 15, 2008. He described penalties that uninsured individuals will face, but claimed that coverage will be more accessible because eligibility for the State Children's Health Insurance Program (SCHIP) had expanded, and enrollment caps for Medicaid had increased.

Rep. Koutoujian then described the role of employer responsibility. He noted that employers of at least 11 workers will be required to offer "good value" products to employees, or pay a "fair share contribution" of \$295 per employee, per year. He said that employers who elect not to offer coverage, but whose employees access a free-care pool often, could be assessed a "free rider surcharge" equal to the cost of service provided. He mentioned that a newly created Commonwealth Health Insurance Connector will review and certify good value products and allow the purchase of policies on a pre-tax basis.

Rep. Godshall asked about state mandates. Rep. Koutoujian answered that the plan did not scale down coverage. He said the state wanted to avoid creating incentives for more vulnerable populations to select minimal coverage.

Rep. Milkey then discussed recent legislation that was passed in Vermont. She said that the legislation creates Catamount Health that provides comprehensive coverage to the uninsured and subsidizes policies on a sliding scale based on individual income. She advised that Catamount focuses on chronic care management and preventative care and seeks to insure all Vermonters.

## SECONDARY MARKETS AND TRANSPARENCY IN HEALTH INSURANCE

Matt Katz of the Connecticut State Medical Society commented on a proposed model law, sponsored by Sen. Crisco, entitled the *Regulation of the Secondary Market in Physician Discounts Act*. He said that the model would, among other things, prevent the sharing of discount information without physician authorization, prevent discounted rates from being utilized by other market sectors, and require any explanation of benefits (EOB) or provider identification cards to identify the entity responsible for paying claims.

Mr. Katz suggested that the model legislation would help patients determine the true cost of health care. He noted that consolidation in the health care market has hampered physicians during contract negotiations with insurance companies.

Marty Mitchell of America's Health Insurance Plans (AHIP) argued that the proposed physician reimbursement legislation would reduce competition in the health care market and would have the effect of increasing administrative costs. He referenced a study that found a one (1) percent premium increase could result in 300,000 additional uninsured.

David Korsh of Blue Cross Blue Shield Association (BCBSA) added that the model legislation is narrowly tailored and does not address the broader issue of transparency.

Dan Schwartz of the Wisconsin PPO Association explained how PPOs operate. He said they are essentially fee-for-service operations and do not manage client care. He described rental networks as systems in which independent groups contract with providers and lease those contracts to insurers and third-party administrators.

After discussion, Rep. Keiser said he was pleased to hear that insurance representatives would work with the American Medical Association (AMA) on the bill, and suggested that lawmakers would not dramatically change contract law in the states but were interested in the transparency provisions of the model legislation.

Upon a motion made and seconded, the Committee voted unanimously to further consideration of the model at the NCOIL Annual Meeting.

#### PROPOSED PHARMACY BENEFIT MANAGER (PBM) MODEL LEGISLATION

Del. Morgan informed members that the U.S. Supreme Court had recently declined to review a First Circuit Court ruling upholding a 2003 Maine PBM law. He said that a proposed *Model Act Regarding Pharmacy Benefit Managers*, which he was sponsoring, was based on a National Association of Chain Drug Stores (NACDS) model that in turn was based on the Maine statute.

Del. Morgan said that the model contains provisions that would require, among other things, that a PBM owe a fiduciary duty to a client, prompt payment of claims, and drug substitution guidelines. He added that PBMs would be required to disclose potential conflicts of interest, as well as financial and drug utilization information as requested by clients. He declared that such information would be considered confidential.

Rep. Keiser noted that a special PBM roundtable would immediately follow the Committee meeting and would permit legislators to ask questions of expert panelists.

Upon a motion made and seconded, the Committee voted unanimously to further consideration of the model at the NCOIL Annual Meeting.

## ENZI BILL AND RELATED LEGISLATION

Mila Kofman of Georgetown University thanked NCOIL for its “early and loud” opposition to S. 1955, the *Health Insurance Marketplace Modernization and Affordability Act*. She said that NCOIL efforts to educate U.S. Senators and their staff on the bill’s effects regarding consumers and insurance markets were crucial to the bill’s latest defeat. She warned that supporters of the bill have met with Senate leadership and were pushing for a second vote on the measure this session.

Ms. Kofman commented that H.R. 2355, the *Health Care Choice Act*, continued to remain on the House calendar. She said that although the bill’s interstate sales approach to health insurance had little support during a Committee mark-up last year, House leadership supported the bill.

## STATE REPEALS OF ALCOHOL EXCLUSION LAWS (UPPL)

Mr. Humphreys stated that since the NCOIL Spring Meeting, Colorado and Connecticut repealed legislation that allowed insurance carriers to exclude health insurance coverage for alcohol-related injuries. He noted that repeal legislation in Hawaii and Illinois had been defeated.

## OTHER BUSINESS

### REVIEW OF MODEL LAW, AS PER BYLAWS

Harry MacAvoy of the New York State Assembly said the *NCOIL Mental Health Parity Model Act*, adopted in 2001, required comparable coverage for mental illness but provided policy options regarding, among other things, whether to apply the model to the individual, small group, or large group markets. He said the model law also defined mental illness.

Mr. MacAvoy said that 35 states had enacted similar legislation by 2001, and he reported that New York had reached a tentative agreement to advance legislation later this year.

Del. Morgan noted that concerns regarding parity were raised in Virginia, as related to the length of time that hospitals keep mental health patients admitted. Mr. MacAvoy said that lawmakers added a provision to the NCOIL model that stated that it did not prohibit utilization or case management requirements.

Upon a motion made and seconded, the Committee unanimously readopted the model.

## ADJOURNMENT

There being no further business, the meeting adjourned at 9:15 a.m.