

This memo will present a brief synopsis—and then a more detailed report—of action taken at the National Conference of Insurance Legislators (NCOIL) Summer Meeting in Philadelphia, PA, held from July 11 through 14, 2013. Near 300 state legislators, insurance regulators, federal officials, media, and consumer and industry representatives attended.

Legislators at the Summer Meeting:

*Life Insurance & Financial Planning Committee*

- adopted a technical amendment to a *Model Unclaimed Life Insurance Benefits Act*

*Property-Casualty Insurance Committee*

- deferred proposed model laws on consumer legal funding, in order to consider the issue further
- agreed to monitor discussions regarding a possible ACORD 875 enhanced insurance binder and to consider the issue more fully at the 2014 Summer Meeting

*State-Federal Relations Committee*

- adopted a resolution in support of further extending the Terrorism Risk Insurance Act (TRIA)

*Workers' Compensation Insurance Committee*

- adopted amendments to expand on an NCOIL repackaged drug reimbursement model
- agreed to seek input from state officials and from interested parties regarding proposed NCOIL best practices to curb opioid abuse and to vote on the proposal at the 2013 Annual Meeting
- deferred consideration of a proposed model on volunteer firefighter coverage, in order to consider the issue further
- determined to develop a proposed model law regarding coverage for farm laborers

*Articles of Organization & Bylaws Revision Committee*

- adopted a bylaws amendment to clarify voting privileges for certain contributing-state legislators

In addition, legislators participated in:

- a symposium on health exchange implementation
- a symposium on providing care under ACA
- a special session on annual and upcoming FIO reports
- a special session on the state of the annuities market
- a keynote luncheon delivered by David Heckler, Bucks County District Attorney

**LIFE INSURANCE & FINANCIAL PLANNING COMMITTEE**

**MODEL UNCLAIMED LIFE INSURANCE BENEFITS ACT**

On July 11, the Committee unanimously adopted a [technical amendment](#) to a 2011 NCOIL *Model Unclaimed Life Insurance Benefits Act*, also adopted by the Executive Committee on July 14, in order to clarify legislative intent. The amended model makes clear that policies under a federal employee plan or ERISA, as well as preneed funeral contracts and credit life or accidental death insurance, are exempt from the model's scope.

**PROPERTY-CASUALTY INSURANCE COMMITTEE**

**CONSUMER LEGAL FUNDING**

On July 11, the Committee deferred, in order to consider the issue further, proposals to regulate third-party lending to consumers engaged in legal action. Both a *Consumer Legal Funding Model Act* and a substitute *Civil Justice Funding Model Act* would allow consumer legal funding subject to various disclosures, as well as would (1) ban referral fees, (2) create guidelines for distributing proceeds, (3) set forth attorney requirements, and (4) establish penalties and enforcement. The models differ regarding timelines for

assessing fees, requiring use of arbitration, and allowing simultaneous involvement of multiple funding companies, among other things.

A proposed [Model Consumer Lawsuit Lending Alignment Bill](#) would subject consumer legal funding to state laws regarding consumer credit transactions, including disclosure requirements and interest rate caps. The proposal also would require a plaintiff who has accepted third-party funding to file info regarding the transaction with the opposing party and with the court.

#### ENHANCED INSURANCE BINDER PROPOSAL

On July 14, the Committee heard from ACORD, lender, and p-c industry representatives on recent developments related to a proposed “enhanced” insurance binder, tentatively dubbed an ACORD 875. After expressing some concern with the status of efforts so far, the Committee determined to request ACORD updates at the 2013 Annual and 2014 Spring Meetings and to consider the issue more fully at the 2014 Summer Meeting. Dialogues related to the 875 concept, taking place through an ACORD working group, stem from NCOIL debate over a certificates of insurance model law and from lenders’ requests for more information up front when processing a loan and at renewal.

#### STATE-FEDERAL RELATIONS COMMITTEE

##### TERRORISM RISK INSURANCE ACT

On July 11, the Committee unanimously adopted a [Resolution in Support of the Further Extension of the Terrorism Risk Insurance Act of 2002](#), which the Executive Committee later adopted on July 14. The resolution reiterates NCOIL support for a long-term extension of the Terrorism Risk Insurance Program and urges Congress and the Administration to take quick action. The resolution asserts that without TRIA, a limited availability of insurance against terrorism would have a severe adverse effect on our country’s economy. NCOIL supported enactment of the Terrorism Risk Insurance Act of 2002 and subsequent extensions in 2005 and 2007.

#### WORKERS’ COMPENSATION INSURANCE COMMITTEE

##### PHYSICIAN-DISPENSED REPACKAGED DRUGS

On July 12, the Committee unanimously adopted [amendments](#), adopted by the Executive Committee on July 14, to expand on an NCOIL *Model Act on Workers’ Compensation Repackaged Pharmaceutical Reimbursement Rates*. The amendments, among other things, (1) add a drafting note to address how states with workers’ comp pharmacy fee schedules might establish reimbursement rates for repackaged drugs, (2) establish that a medical provider can only dispense a repackaged pharmaceutical or over-the-counter drug within seven days of the date of an employee’s initial treatment, and (3) require use of certain reporting databases when calculating a drug’s average wholesale price (AWP).

In general, the model requires that (1) bills submitted for repackaged drugs include the National Drug Code (NDC) number of the original manufacturer, (2) that reimbursement is based on the drug’s AWP calculated on a per unit basis, (3) that reimbursement is based—if the original manufacturer’s NDC is not available—on the AWP of the lowest priced therapeutically equivalent drug, and (4) that certain fees are paid.

##### OPIOID ABUSE

On July 12, the Committee heard initial comments on proposed NCOIL [Best Practices to Address Opioid Abuse, Misuse, and Diversion](#) and determined to vote on the proposal during a joint Annual Meeting session with the Health, Long-Term Care & Health Retirement Issues Committee. Prior to then, the Workers’ Comp Committee will give interested parties a chance to submit any comments or suggestions, and Committee members are encouraged to compare the draft guidelines against their states’ current requirements, as well as to bring the proposal back to their district attorneys.

The draft best practices, which reflect interested-party written and oral comments over more than one year, address how to, among other things:

- establish, evaluate, and fund prescription drug monitoring programs (PDMPs)
- create strong evidence-based prescribing standards that recognize “one-size-does-not-fit-all” and that crack down on “pill mill” pain clinics
- promote enhanced and effective education of physicians and the public, including opportunities for safe drug disposal

- pursue options for encouraging treatment and recovery, including use of certain drug treatments and of drug courts

### **VOLUNTEER FIREFIGHTER COVERAGE**

On July 12, the Committee deferred, in order to consider the issue further, a proposed expanded version of a [draft Model Act on Workers' Compensation Coverage for Volunteer Firefighters](#). As introduced, the proposed model would create a "public employment" definition that affords eligibility for workers' comp benefits when a volunteer firefighter performs firefighter-related duties that are not directly related to emergency response. Additions to the proposal would require state fire marshals to receive annual rosters of volunteer firefighter personnel and to make them available to insurers. The new version also would require an insurance commissioner to establish, every five years, a minimum annual payroll amount per volunteer firefighter. The minimum would be used to set workers' compensation insurance rates.

### **FARM LABORER COVERAGE**

On July 12, the Committee determined to consider a proposed model act at the Annual Meeting that would establish a threshold above which an employer must provide workers' compensation coverage to his/her farm laborers. The decision to pursue develop of model legislation followed a report on USDA demographic and other considerations related to farm workers. The Committee has considered farm laborer coverage issues for more than one year.

## **ARTICLES OF ORGANIZATION & BYLAWS REVISION COMMITTEE**

### **COMMITTEE VOTING**

On July 13, the Committee adopted an [amendment](#) to Bylaws Section IV(J) to clarify NCOIL voting privileges for contributing-state legislators who are not state committee chairs. In particular, the amendment requires a legislator to join a standing committee at least 60 days prior to a conference in order to vote on the committee at that time.

## **MODEL FOR SUNSET/RE-ADOPTION, AS PER BYLAWS**

The Health, Long-Term Care & Health Retirement Issues Committee deferred its review of an NCOIL [Mental Health Parity Model Act](#), first adopted in 2001, to the Annual Meeting due to time constraints.

## **OTHER SESSIONS**

### **SYMPOSIUM ON HEALTH EXCHANGE IMPLEMENTATION**

On July 11, legislators participated in a special session in which stakeholders offered perspectives on progress related to health insurance exchanges at the state and federal levels. Panelists discussed, among other things, the current state of the health exchanges; the multi-state plan program; premium rate increases and decreases; building an IT infrastructure; insurer participation and market competition; healthcare navigators; and consumer assistance programs.

Participants included:

- Gary Cohen of the Center for Consumer Information & Insurance Oversight (CCIIO)
- Rob Shriver of the Office of Personnel Management (OPM)
- Mollie Zito of the Wisconsin Office of the Commissioner of Insurance (OCI)
- Jeanette Thornton of America's Health Insurance Plans (AHIP)
- Elisabeth Benjamin of the Consumer Service Society of New York (CSSNY)

### **SYMPOSIUM ON PROVIDING CARE UNDER ACA**

On July 12, legislators held a session with experts in the healthcare field to discuss who will provide care under the Affordable Care Act (ACA), as major provisions begin to take effect. Speakers discussed estimates of available providers and expectations for different medical disciplines. Legislators also heard about possible solutions, such as expanding scope of practice rules, further training and recruitment, and new models of care.

Participants included:

- Dr. Atul Grover of the Association of American Medical Colleges (AAMC)
- Mindy McGrath of the Association of Academic Health Centers (AAHC)
- Dr. John Combes of the American Hospital Association (AHA)

- Dr. Wendy Braund of the Wyoming Department of Health and on behalf of the American Public Health Association (APHA)

### SPECIAL SESSION ON FIO REPORTS

On July 12, legislators participated in a special session entitled *FIO Reports, Annual and Upcoming* that offered insight into a June FIO annual report on the insurance industry, as well as on forthcoming reports regarding U.S. insurance regulatory modernization, availability and affordability of coverage, natural catastrophe insurance, and the Terrorism Risk Insurance Program.

Speakers included:

- Julie Gackenbach of Confre Strategies
- Dennis Burke of the Reinsurance Association of America (RAA)
- David Snyder of the Property Casualty Insurers Association of America (PCI)
- Joe Thesing of the National Association of Mutual Insurance Companies (NAMIC)

### SPECIAL SESSION ON ANNUITIES

On July 13, legislators participated in a special session entitled *The World of Annuities: Regulation, Consumer Protection & Taxation*. Speakers discussed market dynamics following the 2008 financial crisis, including insurer efforts to limit their annuities risk; NAIC efforts regarding consumer disclosure, contingent deferred annuities (CDAs), and other things; securities-related regulation of annuity products; proposals to tax certain annuity investment income; and the ability of seniors to understand their annuities options.

Panelists included:

- Nancy Bennett of the American Academy of Actuaries (AAA)
- Jason Berkowitz of the Insured Retirement Institute (IRI)
- Larry Kosciulek of the Financial Industry Regulatory Authority (FINRA)
- James Mumford of the Iowa Division of Insurance and on behalf of the NAIC
- Ryan Wilson of AARP

### KEYNOTE ADDRESS

On July 12, legislators heard a keynote luncheon address delivered by David Heckler, District Attorney of Bucks County, Pennsylvania, and Chair of the Task Force on Child Protection. Mr. Heckler spoke to, among other things, child abuse prevention efforts following the Penn State scandal, public attitudes in the aftermath of the controversy, and the role of state legislatures in prevention efforts.

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In addition, legislators considered the following issues:

- global *ComFrame* standards and the U.S.
- the Interstate Insurance Product Regulation *Compact*
- state *credit scoring* legislation
- *flood insurance* reform/rate setting
- *group supervision* of insurance companies
- *heightened insurer capital* rules under Dodd-Frank and Basel III
- *lender-placed insurance* activity
- *long-term care* financing/approaches
- economic impacts of *Medicaid expansion*
- personal *mortgage insurance*
- a *Multistate Tax Commission* (MTC) Non-Income Taxpayer Project
- *municipal bond insurance* developments
- *NARAB II* producer licensing legislation
- *principles-based reserving* and *captive insurance* mechanisms
- *private equity firm* ownership of life insurers
- *title insurance* regulatory issues
- *trade negotiations* and insurance impacts