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NCOIL NIXES PBM MODEL LAW

Savannah, Georgia, March 7, 2007 — The National Conference of Insurance Legislators (NCOIL) Health, Long-Term Care & Health Retirement Issues Committee postponed indefinitely a proposed *Model Act Regarding Pharmacy Benefit Managers (PBMs)*. Members, gathered here to attend the NCOIL Spring Meeting, decided against further consideration of an NCOIL PBM model law after nearly two years of debating related issues.

An extensive review of state PBM laws and initiatives, as well as issues related to pharmaceutical costs, disclosure in business practices, and the role of a fiduciary preceded the Committee's decision. Representatives of PBMs, health plans, and community pharmacists engaged legislators in the discussion.

Legislative concerns with the proposed model included a desire to avoid a "one-size-fits-all" approach that could not address unique state markets, and a fear that the model would increase drug costs for consumers. Members referenced studies performed by the Federal Trade Commission (FTC) on similar state PBM measures to demonstrate the effects such a bill could have on state markets.

Delegate Harvey Morgan (VA), acting chair of the Committee and primary bill sponsor, said, "Although the legislation was not approved, I think we have accomplished a lot by considering it. NCOIL exploration of the issue, combined with the numerous legal actions which have exposed questionable PBM practices in the past few years, have resulted in an increased awareness of the service and the market."

The proposed model was first introduced Delegate Morgan at the 2006 Summer Meeting. It would have, among other things, required that a PBM owe a fiduciary duty to a covered entity, provided transparency regarding financial and utilization information, disclosed any conflict of interest presented by PBM activity, and followed drug substitution guidelines.

NCOIL interest in the PBM industry sparked with concerns regarding compensation practices and the expertise of parties acting as PBMs. In 2006, NCOIL hosted a special roundtable discussion and a debate to further its investigation of PBM activity.

The Committee met during the March 1 through 4 NCOIL Spring Meeting. The NCOIL Summer Meeting will be held from July 19 through 22 in Seattle, Washington.

NCOIL is an organization of state legislators whose main area of public policy interest is insurance legislation and regulation. Most legislators active in NCOIL either chair or are members of the committees responsible for insurance legislation in their respective state houses across the country. More information is available at www.ncoil.org.

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