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# NCOIL NEWSLETTER

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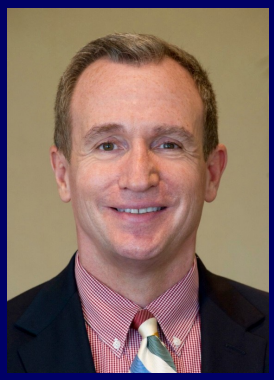
NCOIL ANNUAL MEETING
December 5—8, 2018
Oklahoma City, OK

★ ANNUAL MEETING ★
2018
NATIONAL COUNCIL OF INSURANCE LEGISLATORS ★ NCOIL EST. 1969
OKLAHOMA CITY ★ OKLAHOMA



Thomas B. Considine
NCOIL CEO

Sen. Dan "Blade" Morrish, LA
Vice President

Rep. Matt Lehman, IN
Treasurer

## FROM THE PRESIDENT'S DESK

***AR Sen. Jason Rapert***

Sen. Jason Rapert, AR
NCOIL President

As we approach the NCOIL Annual Meeting in Oklahoma City in a few weeks, my term as the president of this organization will conclude and I wanted to take a few moments to reflect on what we have worked to accomplish together over the past few years, particularly this past one in which I have been honored to serve as NCOIL President.

Let me begin by saying thank you to my NCOIL legislative colleagues, state insurance regulators, members of congress and their staff members, and NCOIL participants that I have interacted with over the past many years, I want to take a moment to say thank you.

After my election to the Arkansas Senate, I learned that there were many legislative organizations in which I could participate, some were run by legislators and some were run by private organizations. I soon attended my first NCOIL meeting and was struck by how deeply this group delved into insurance and financial services policy matters. ***Con'd on Page 2.***

## NCOIL TO EXAMINE ERISA's IMPACT ON STATE HEALTH PLANS

Commissioner Tom Considine, NCOIL CEO announced the Health General Session at the 2018 Annual Meeting in Oklahoma City is "Examining the Role of ERISA in the State Based System of Insurance Regulation: Can Meaningful State Reform in an ERISA-dominated marketplace be achieved?" featuring a distinguished group of presenters.

"We continue to strive to discuss insightful topics that educate legislators and participants with policy experts that deeply understand issues" said Considine. "This topic is timely because ERISA seems to pervade NCOIL discussions of policy solutions for a variety of issues."

The panel includes Professor Jonathan B. Forman, Kenneth E. McAffee Centennial Chair of Law University of Oklahoma College of Law; Professor Elizabeth McCuskey, Co-Director, JD/MD & JD/MPH Joint Degree Programs, University of Toledo College of Law; James Gelfand, Senior Vice President, Health Policy, ERISA Industry Committee (ERIC); and The Honorable Jessica Altman Commissioner, Pennsylvania Department of Insurance, Vice Chair, NAIC Health Insurance and Managed Care (B) Committee. ***Con'd on Page 2.***

Asm. Ken Cooley, CA
Secretary

Rep. Steve Riggs, KY
Immediate Past President

Sen. Travis Holdman, IN
Immediate Past President

## The President's Desk con'd

As a financial services professional, and a member of the Insurance Committee back in the Arkansas Senate, I felt at home with NCOIL and was eager to participate.

One of the first policy challenges was to enroll my state in the Interstate Insurance Product Regulatory Commission (IIPRC). Having looked at the map of compacting states, Arkansas was a donut hole as every other neighboring state was enrolled. I carried the legislation to have Arkansas participate. Later, I served on the IIPRC Legislative Committee and enjoyed interacting with my legislative colleagues at these meeting and on conference calls.

In relatively short order, I was appointed to the NCOIL Executive Committee and soon thereafter I was nominated by an NCOIL colleague to join the officer ranks. I was humbled to be nominated to serve as an officer of an organization that was more than four decades old, so deeply rooted in policy and where legislators roll up their sleeves and become subject matter experts. It is hard to believe that I have now been a part of this organization for 8 years.

Over the past few years we have increased the number of legislators and states that participate with NCOIL and now have 34 contributing member states covering 81% of the United States population. In keeping with our goal to provide leadership on insurance and financial services issues, we have traveled to DC each year over the past three years to educate our federal counterparts about issues in the states and protection of state-based regulation of insurance.

During my year as President, I have spoken at meetings of interested parties including the Coalition Against Insurance Fraud, the National Association of Mutual Insurance Companies, the National Association of Insurance Commissioners and represented NCOIL at a meeting with our regulatory counterparts and the Lord Mayor of London to discuss ways NCOIL has been focusing to improve insurance public policy in our states.

I am proud of the ongoing discussion surrounding regulation of Pharmacy Benefits Managers (PBMs) and think that NCOIL is exactly the organization to lead in solving this policy challenge. Finding solutions to difficult challenges has been NCOIL's strength and I am confident it will continue to be as we begin our 5th decade.

In short order I will be handing the gavel over to Sen. Dan "Blade" Morrish of Louisiana who will be serving as president of this organization. I have full confidence in Sen. Morrish who is an NCOIL veteran, knowledgeable statesman and terrific leader. The years ahead look very bright for NCOIL with strong experienced legislators preparing to lead our organization like Rep. Matt Lehman of Indiana and Asm. Ken Cooley of California. We are blessed with great bipartisan leadership that I hope will continue to make NCOIL one of the best legislative organizations in the country.

Again, thank you for your participation, your suggestions and your help, not just during the last year while I served as NCOIL President, but for the years prior as we changed the course of NCOIL for the better. For me, this is not goodbye. I am still an officer in this organization and plan to remain involved to help it grow and guide new legislators to participate fully as committee members, chairs and officers.

I look forward to seeing you in Oklahoma City.

*Jason*

## ERISA's IMPACT ON STATE HEALTH PLANS con'd

"When I was in the insurance industry, approximately 40% of the health care market fell under the jurisdiction of state regulation. This shrank to about one-third while I was serving as New Jersey's Banking & Insurance Commissioner, and now it is at risk of dipping below 30%. This is directly related to employers of smaller size moving to self-funded ERISA plans," Considine concluded.

The Health General Session is scheduled for Thursday, December 6th from 11:30 a.m. – 1:00 p.m. at the Renaissance Oklahoma City.

Sen. Dan "Blade" Morrish, LA
Vice President

Rep. Matt Lehman, IN
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Asm. Ken Cooley, CA
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Immediate Past President

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# IEC POINT/COUNTERPOINT

## What You Need to Know About PBMs: The Patient Advocate for High Quality, Affordable Prescription Drugs

***By Edmund J. Pezalla, MD, MPH, PCMA, Pharmaceutical Care Management Association***

There is so much rancor and finger pointing these days over prescription drug prices that consumers are often left to wonder: who is fighting on their behalf? The answer: Pharmacy Benefit Managers, or PBMs.

Companies and public programs providing prescription drug coverage hire PBMs for their expertise, and ability to reduce drug costs by negotiating for rebates and discounts from big drug companies and drugstores. It would be too expensive and complicated for employers, or other payers, to match PBMs' ability to reduce drug costs, while providing access.

Though drug makers continue to raise prices out of proportion to increases in value, PBMs are doing their job by keeping drug costs down.

Having been involved as a clinician representing insurers and PBMs for more than 25 years, I know first-hand the importance of leveraging savings while ensuring that patients have the medications they need.

It is easy to see that PBMs reduce drug costs, but often overlooked is the clinical value that they provide payers and patients. PBMs work in coordination with their clients to carefully evaluate new drugs, review existing drugs, and apply sophisticated drug assessments that promote the best use of complex medications, and the appropriate use of mainstay drugs.

Pharmacists, doctors and other professionals employed by PBMs review the medical evidence for every drug approved by the FDA, assist in managing drug-related side effects and provide support to create formularies so that patients stay on their drug regimens and out of the hospital. That in turn lowers costs for patients and the entire health care system.

These formularies often organize medications according to their therapeutic effects

*Con't on Page 5*

## PBM regulations are needed to protect patients, pharmacies, and plan sponsors

***Pharmacist B. Douglas Hoey, MBA, CEO of the National Community Pharmacists Association***

PBMs play a role in almost every aspect of the prescription drug supply chain. They determine which pharmacies patients may choose by creating exclusive provider networks, which drugs patients can be prescribed by creating drug formularies, and how much patients pay at the pharmacy counter for their medications.

Despite their authority over patients' health care options, PBMs enjoy little regulatory oversight by the states. This lack of oversight and accountability has allowed PBMs to, as one economist recently noted in MarketWatch, "sit astride the pharmaceutical pricing apparatus like modern colossuses," having dire impacts on patients, pharmacies, and plan sponsors.

Unfortunately, PBMs' unchecked power can put patients at a significant disadvantage. Frequently, PBMs cut off patient choice by mandating the use of PBM-owned mail-order pharmacies, preventing patients from utilizing the pharmacy of their choice. Some PBM practices can even end up costing patients more at the pharmacy counter. Congress recently passed legislation to prohibit PBMs from using "gag clauses" to prevent pharmacists from helping patients pay the lowest possible cost for their prescriptions. Consider that: it took an act of Congress to keep PBMs from utilizing practices that result in patients being charged inflated prices.

PBMs have also put a squeeze on community pharmacies by implementing reimbursement methodologies completely divorced from a pharmacy's true acquisition costs, leaving pharmacies to dispense many prescriptions at a loss. A study commissioned by the state of Ohio found PBMs to be under-reimbursing pharmacies by more than $350 million annually in the state's Medicaid managed care program. With these egregious under-reimbursements, pharmacies cannot continue serving patients in their communities, thereby creating pharmacy access issues.

Plan sponsors are drawn to PBMs because of

*Con't on Page 5*

# NCOIL ANNUAL MEETING
# TENTATIVE SCHEDULE

*Annual Meeting—December 5-8, 2018 Oklahoma City, OK*

## Wednesday December 5th 2018

| | | | |
|---|---|---|---|
| **Oklahoma State Capitol Tour** | 3:00 PM | - | 4:00 PM |
| **IEC Board Meeting** | 5:30 PM | - | 6:30 PM |
| **Welcome Reception** | 6:30 PM | - | 7:30 PM |

## Thursday December 6th 2018

| | | | |
|---|---|---|---|
| **Welcome Breakfast** | 8:15 AM | - | 10:00 AM |
| **Networking Break** | 10:00 AM | - | 10:15 AM |
| **Life Insurance & Financial Planning Committee** | 10:15AM | - | 11:30 AM |
| **Health General Session** | 11:30 AM | - | 1:00 PM |
| **The Institutes Griffith Foundation Legislator Luncheon** | 1:00 PM | - | 2:15 PM |
| **Financial Services Committee** | 2:15 PM | - | 3:30 PM |
| **Networking Break** | 3:30 PM | - | 3:45 PM |
| **Innovation General Session** | 3:45 PM | - | 5:15 PM |
| **Budget Committee** | 5:15 PM | - | 5:45 PM |
| **CIP Member & Sponsor Reception** | 5:45 PM | - | 6:45 PM |

## Friday December 7th 2018

| | | | |
|---|---|---|---|
| **Property & Casualty Insurance Committee** | 9:00 AM | - | 10:30 AM |
| **Networking Break** | 10:30 AM | - | 10:45 AM |
| **General Session** | 10:45 AM | - | 12:00 PM |
| **Luncheon with Keynote Address** | 12:00 PM | - | 1:15 PM |
| **Legislative Micro Meetings** | 1:15 PM | - | 1:45 PM |
| **NCOIL – NAIC Dialogue** | 1:45 PM | - | 3:15 PM |
| **Networking Break** | 3:15 PM | - | 3:30 PM |
| **Joint State-Federal Relations and International Insurance Issues Committee** | 3:30 PM | - | 5:00 PM |
| **Articles of Organization & Bylaws Review Committee** | 5:00 PM | - | 5:30 PM |
| **Nominating Committee** | 5:30 PM | - | 6:00 PM |

## Saturday December 8th 2018

| | | | |
|---|---|---|---|
| **Health, Long Term Care, and Health Retirement Issues Committee** | 9:00 AM | - | 11:00 AM |
| **Networking Break** | 11:00 AM | - | 11:15 AM |
| **Workers' Compensation Insurance Committee** | 11:15 AM | - | 12:30 PM |
| **Business Planning and Executive Committee** | 12:30 PM | - | 1:30 PM |


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## PMB's Con'd

## What You Need to Know About PBMs: The Patient Advocate for High Quality, Affordable Prescription Drugs

and create logical sequences for their use based on clinical effectiveness, place in therapy according to national guidelines, and safety. Generic and lower cost brand medications can be incentivized before more expensive medicines because they work well for the majority of patients and have lower copays. New formulary models that group drugs by the disease treated, rather than strictly by chemical class, increase the opportunities for competition and for optimizing drug availability for individual patients.

As the healthcare sector moves toward payment for value rather than volume, PBMs are providing expertise in developing and executing on these types of outcomes-based contracts that are intended to ensure that our pharmaceutical dollars are spent on drugs that provide the best outcomes.

These agreements require a high level of sophistication about drug use patterns and patient outcomes, as well as the ability to monitor and improve patient compliance and measure relevant outcomes.

As the law-makers at NCOIL continue to discuss the role of PBMs in the drug supply chain and the model act that has been proposed, I hope there is caution taken to not undermine the PBMs tools that reduce patient risk, contain costs and provide access to patients.

## PBM regulations are needed to protect patients, pharmacies, and plan sponsors

claims that they control drug costs, but we're finding a different story. Going back to Ohio, its auditor found that, despite the under-reimbursements for pharmacies, PBMs were overcharging the state $225 million dollars a year to administer the prescription drug benefit for the Medicaid population. PBMs take advantage of plan sponsors, as the city of Rockford, Illinois found when it sued its PBM for failing to control its employees' drug costs. As detailed in an exposé shown on "60 Minutes," the PBM contended that it was not "contractually obligated" to control drugs costs.

Up until now, the prevailing thought has been to focus regulations on the health insurer, assuming those regulations would cover the insurer's PBM. However, this line of thinking and lack of oversight has allowed PBM abuses to flourish. It's time for states to enact PBM-specific legislation, allowing insurance regulators to license PBMs and guarantee patient access to life-saving pharmacy services. Such legislation is necessary to ensure that patients will be able to afford prescription drugs at the lowest cost and continue accessing health care providers without costly and burdensome interference from PBMs.


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NCOIL WOULD LIKE TO THANK OUR 2018 CORPORATE & INSTITUTIONAL PARTNERS FOR THEIR CONTINUED SUPPORT