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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 Chicago, Illinois, from July 15 through 18, 2004.

At the meeting, legislators focused on issues including market conduct regulatory reform; credit scoring; the Terrorism Risk Insurance Act (TRIA); life settlements; natural disaster insurance issues; prescription price disclosure; medical malpractice and patient safety; the NCOIL Articles of Incorporation and Bylaws; claims history databases; and managed care.

Nearly 300 state legislators, insurance regulators, and industry and media representatives attended the meeting.

SYNOPSIS

At the NCOIL Summer Meeting, legislators:

- Amended the NCOIL *Market Conduct Surveillance Model Law*
- Unanimously adopted a clarifying amendment to the NCOIL *Model Act Regarding Use of Credit Information in Personal Insurance*
- Unanimously adopted a *Resolution Urging Congress to Extend the Terrorism Risk Insurance Act (TRIA)*
- Adopted an amended version of the NCOIL *Life Settlements Model Act*
- Unanimously adopted a *Resolution Regarding Natural Disaster Issues*
- Unanimously amended the NCOIL *Articles of Incorporation and Bylaws*
- Deferred consideration of a proposed *Drug Retail Disclosure Model Act* (working draft)
- Participated in a special meeting on medical malpractice and patient safety

- Participated in a general session on claims history databases
- Participated in a general session on the evolution of managed care

DETAILED REPORT

MARKET CONDUCT SURVEILLANCE

On July 16, the Executive Committee considered proposed amendments to the NCOIL *Market Conduct Surveillance Model Law*, sponsored by Sen. Steven Geller (FL). The Model Law provides guidance to states looking to create a statutory framework for market conduct regulation. The Model Law establishes a new market conduct regulatory paradigm that relies upon market analysis and targeted examinations, rather than random, comprehensive examinations. The new regulatory regime created by the Model Law would reduce the inefficiency and redundancy found in the present market conduct regulatory system.

The proposed amendments were developed by the NAIC following the adoption of the Model Law by NCOIL in February, 2004. The adopted amendments strengthen and clarify the intent of the Model Law, and among other things:

- Require regulators to focus market conduct actions on general business practices rather than infrequent or unintentional random errors that do not result in harm to consumers
- Provide the insurance commissioner with greater flexibility to accept market conduct examinations performed by other states
- Provide options for states on how they want to respond when the NAIC makes material changes to any of its market conduct work products reference in the Model Law

NCOIL CREDIT SCORING MODEL ACT

On July 16, the Executive Committee unanimously adopted a clarifying amendment, sponsored by Committee Chair Rep. George Keiser (ND), to the NCOIL *Model Act Regarding Use of Credit Information in Personal Insurance*. Legislators made no substantive changes to the NCOIL model. The amendment specifies, by way of a drafting note, that an insurer could not take an adverse action against a consumer whose credit score fell below or above an insurer-established minimum threshold, without considering non-credit-related underwriting factors.

The NCOIL model, adopted in November 2002, would, among other things:

- require an insurer to re-underwrite an insured whose credit report was corrected
- require an insurer to disclose that credit information would be used in underwriting
- require an insurer to notify a consumer when an adverse action was based on credit
- indemnify insurance agents/brokers obtaining credit information and/or credit scores according to an insurer's procedures and applicable law and regulation
- restrict a consumer reporting agency's ability to provide/sell data submitted in conjunction with an insurance inquiry
- require an insurer to file its scoring models as trade secret with the Dept. of Insurance

EXTENSION OF THE TERRORISM RISK INSURANCE ACT (TRIA) OF 2002

On July 16, the Executive Committee unanimously adopted a proposed *Resolution Regarding the Extension of the Terrorism Risk Insurance Act of 2002*, sponsored by Task Force Chair Assemblywoman Nancy Calhoun (NY). The resolution outlines NCOIL support for TRIA and urges Congress to act quickly to extend the program.

LIFE SETTLEMENTS

On July 16, the Executive Committee unanimously amended and readopted the NCOIL *Life Settlements Model Act*, as per bylaws. The Life Insurance Committee originally adopted the Model Act on November 16, 2000. Amendments to the model act include updated definitions and terms in relation to life settlements transactions and provisions concerning fraud, advertising, examination, and reporting.

NATURAL DISASTER INSURANCE

On July 16, the Executive Committee unanimously adopted a *Resolution Regarding Natural Disaster Insurance Issues*, co-sponsored by NCOIL Vice President Rep. Craig Eiland (TX), Rep. Rich Golick (GA), Rep. George Keiser (ND), Sen. William Larkin (NY), Sen. Pamela Redfield (NE), and Rep. Dan Tripp (SC). The resolution furthers NCOIL's interest in natural disaster insurance issues and commits NCOIL to investigate the following:

- a natural disaster insurance system modeled after the Terrorism Risk Insurance Program (TRIP)
- a National Flood Insurance Program that incorporates natural disaster risks
- a reauthorized TRIP that incorporates natural disaster risks
- a natural disaster catastrophe fund for the nation, or for targeted regions

NCOIL ARTICLES OF ORGANIZATION/BYLAWS

On July 16, the Executive Committee unanimously adopted amendments, sponsored for discussion by Rep. George Keiser (ND), that allow insurance committee chairs in the legislative houses of each member state to be voting members of the NCOIL Executive Committee at their first meeting, as well as provide that each NCOIL member state may have a maximum of five (5) Executive Committee members.

PRESCRIPTION DRUG RETAIL PRICE DISCLOSURE

On July 16, the Executive Committee voted to defer to the Health Insurance Committee a proposed NCOIL *Prescription Drug Retail Price Disclosure Model Act* to the Annual Meeting in November. The model, sponsored by Rep. Kathleen Keenan (VT), is based on New York §6826 Education Law.

The proposed model act would require:

- drug retail operations to disclose to consumers the prices for the most 150 frequently prescribed medications
- pharmacies to indicate to consumers the availability of a generic where generic medications are available for prescribed brand name drugs
- pharmacies to post conspicuously a sign notifying consumers of the drug retail price list and that prices for medications vary between pharmacies

MEDICAL MALPRACTICE AND PATIENT SAFETY

On July 15, the Property-Casualty Insurance Committee participated in a special meeting on medical malpractice and patient safety. The meeting was part of NCOIL’s effort to address medical liability insurance issues and served as the starting point for more targeted consideration during the November Annual Meeting, including examination of a model law or white paper.

Among other things, the Committee discussed options including:

- analysis of closed claims data to help identify and mitigate patterns of medical errors
- ways to support and strengthen medical boards
- reform of hospital procedures and disclosure policies
- public access to the National Practitioner Data Bank (NPDB)

Experts participating in the session represented the Texas Department of Insurance, the American Medical Association (AMA), The Doctors’ Company, the American Hospital Association (AHA), the Association of Trial Lawyers of America (ATLA), and Public Citizen.

CLAIMS HISTORY DATABASES

Legislators participated in a general session entitled “*Getting a Clue: The Pros and Cons of Loss-History Databases.*” Among other things, panelists focused on the history and function of claims databases; the appropriate treatment of consumer inquiries and claims without payments; issues regarding allowing claims of a previous owner to affect a home buyer; suggestions for state legislation; and the connection between claims databases and regional real estate markets. The panel featured regulatory, realtor, insurance industry, insurance agent, and consumer representatives, as well as participation by companies that operate claims databases.

MANAGED CARE

Legislators participated in a general session entitled “*The Evolution of Managed Care: Costs versus Benefits.*” Panelists focused on the stages of managed care in identifying system breakdowns, and suggested ideas as to what lawmakers can do in their states. The panel featured speakers from Temple University, Blue Cross Blue Shield Association, American Academy of Family Practice Physicians, and Families USA.

In addition, legislators considered the following issues, among others:

- property-casualty insurance rate modernization
- direct-to-consumer advertising and drug importation
- the uninsured
- pending federal legislation on financial modernization
- Association Health Plan (AHP) legislation
- corporate governance and accountability
- long-term care
- genetic discrimination
- second injury trust funds
- collateral requirements for foreign reinsurers
- Office of the Comptroller of Currency (OCC) regulations regarding state banks
- the Uniform Accident and Sickness Policy Provision Law (UPPL)
- fraud issues and legislation

If you would like to receive additional information regarding any of the issues discussed above, or are interested in ordering a general session audiotape, please contact the NCOIL National Office at (518) 449-3210.