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NCOIL ANNUAL MEETING

Dec. 10—13, 2019
Austin, TX

Registration Opens Sept. 3rd



Sen. Dan "Blade" Morrish, LA
President



Thomas B. Considine
NCOIL CEO



Rep. Matt Lehman, IN
Vice President

FROM THE PRESIDENT'S DESK

For my quarterly NCOIL Newsletter column, I want to share the response that the NCOIL officers submitted to USA Today after the publication of Copy, Paste, Legislate.

Since they have added new reporting to the articles since the original was published in April, I think it is important to be on the record with how NCOIL is different from some of the other organizations and to describe the methodical, inclusive process that we work through to achieve model laws that are balanced where everyone has had a chance to be heard.

Blade

NCOIL – SOUND PUBLIC POLICY IN 50 STATES FOR 50 YEARS

Not all model law organizations are the same

By: Dan "Blade" Morrish, Republican Louisiana State Senator & NCOIL President
Matt Lehman, Republican Indiana State Representative & NCOIL Vice President
Kenneth Cooley, Democrat California State Assemblyman & NCOIL Treasurer
Kevin Cahill, Democrat New York State Assemblyman & NCOIL Secretary

We read with interest your article Copy, Paste, Legislate on April 4th, 2019 and twice revised on June 20th and July 18th. We want to make clear that the National Council of Insurance Legislators (NCOIL) is different in several important respects from the organizations you reference.

NCOIL is, and has been since its founding in 1969, a bipartisan organization of state legislators with the 50 states as members. We legislators both make the decisions that guide the organization as well as consider and pass model legislation.

By act of Congress, insurance regulation has happened at the state level for seventy-four years. For more than half a century, NCOIL, led by state legislators, has drafted model laws in insurance to ensure consumer protections and company solvency.

NCOIL gathers publicly three times a year and all seven of its policy committees, comprised solely of state legislators, meet - Financial Services & Multi-lines Issues; Health Insurance and Long Term Care Issues; Life Insurance and Financial Planning; Joint State-Federal Relations and International Insurance Issues; NCOIL-NAIC Dialogue; Property & Casualty Insurance; and Workers' Compensation Insurance.

At NCOIL, it is a bipartisan group of state legislators, acting in that elected capacity, who are the decision-makers from beginning to end. Interested parties, whether they are regulators, companies, consumer groups or trade organizations also have a participatory role, *Con'd on Page 2*



Asm. Ken Cooley, CA
Treasurer



Asm. Kevin Cahill, NY
Secretary



Sen. Jason Rapert, AR
Immediate Past President



Sen. Travis Holdman, IN
Immediate Past President

FROM THE PRESIDENT'S DESK CON'D

just as they do in each state's legislative process, so the final model law is a product that is balanced and can be introduced, often in a customized manner, to fit the needs of a specific state.

Once an issue has been introduced and discussed at an NCOIL meeting, if it is the will of the membership, potential model law language is placed on the agenda for discussion and consideration. Items to be considered are announced publicly at least 30 days prior to a meeting.

During this process, all draft language and model minutes are publicly available on the NCOIL website and anyone is free to submit comments. After members have determined there has been sufficient debate and discussion, the item is either tabled or voted upon. If a model is adopted, the final version is publicly available.

Over the past two years NCOIL has adopted model laws and resolutions on a diverse set of subjects: Resolution in Support of Amending the Employee Retirement Income and Security Act of 1974 (ERISA) to Enable State Policymakers to Enact More Meaningful State Healthcare Reforms; Resolution in Support of Good Samaritans' Efforts to Prevent Loss of Life Due to Opioid Overdose; Resolution in Support of State Regulated Health Savings Account-Based Coverage; Resolution Asserting McCarran-Ferguson Reverse Preemption over the Supervision of Insurance Companies by the Federal Reserve Board and its Examiners; Pharmacy Benefits Manager Licensure and Regulation Model Act; Consumer Protection Towing Model Act; Model Act to Support State Regulation of Insurance by Requiring Competition Among Insurance Rating Agencies; Out-of-Network Balance Billing Transparency Model Act; Credit Report Protection for Minors Model Act; Model Act Prohibiting Consumer Reporting Agencies from Charging Fees Related to Security Freezes; Travel Insurance Model Act; Model Act Regarding Air Ambulance Insurance Claims; and Asbestos Bankruptcy Trust Claims Transparency Model Act.

That is just a sampling of the dozens of model laws and resolutions that have been adopted or re-adopted by NCOIL. As you can see, we aim to craft solutions to what we view as problems consumers are facing in the insurance and financial services industries across the country, whether that problem involves consumers receiving "surprise" bills from out-of-network healthcare providers, or being denied life insurance coverage solely for having a prescription for the life-saving, opioid-reversal drug Narcan.

Lastly, NCOIL is funded largely by the states with an equal dues structure regardless of state population, and the three meetings annually.

While we can not speak to how other organizations operate, we, the current officers of NCOIL are confident that our organization's membership, level of transparency, and bipartisanship makes us unique and effective in our operations. We are proud of the work we do to advance sound public policy in the form of model laws and resolutions in a collaborative and bipartisan manner.

2019 NCOIL SUMMER MEETING IN NEWPORT BEACH A SUCCESS

The National Council of Insurance Legislators (NCOIL) met in July at the Newport Beach Marriott Hotel and Spa in Newport Beach, CA and hosted a successful Summer Meeting with more than 315 attendees, 57 legislators from 27 states, including 14 first time attendees, 4 Insurance Commissioners (or equivalent), and representatives of 14 state insurance departments. The 7 policy committees all met, as well as the third meeting of the Special Committee on Natural Disaster Recovery.

"I am proud that NCOIL attracted a large number of first-time attendees and legislators from more than two dozen states" said Louisiana Senator Dan "Blade" Morrish, NCOIL President. "NCOIL continues to grow and its' reputation as a force to protect state based regulation of insurance is enhanced every day."

Participants at the Welcome Breakfast heard from CA Insurance Commissioner Ricardo Lara who discussed his first few months in office and the policy challenges *Con'd on Page 3.*

NCOIL SUMMER MEETING CON'D

California and the nation face with regard to climate change, cannabis policy and how technology is changing the insurance industry.

“As we celebrate NCOIL’s 50th year, I am proud that the upward trend in participation continues to grow” said Commissioner Tom Considine, NCOIL CEO. “Combine that with high level speakers including FIO Director Steven Seitz, Senior Advisor to the Secretary of Health and Human Services Jim Parker and California Insurance Commissioner Ricardo Lara show that we are making progress and educating legislators, and now staff about insurance public policy trends.”

Steven Seitz, Director of the Federal Insurance Office delivered remarks about the goals of his office and engaged in a question and answer conversation with Commissioner Considine.

There were three interesting and timely general sessions: “Prior Authorization: An Obstacle to Care or a Needed Cost Saver?”; “Driving Rx Drug Costs Down via Biosimilars?”; and a “Discussion on the Evaporating Insurance Market for Contact Sports.”

The Financial Services & Multi-Lines Committee re-adopted the Insurance Fraud Model Act with amendments to strengthen it since it was passed nearly two decades ago. The Joint State-Federal Relations & International Insurance Issues Committee passed a resolution in support of the recently amended NAIC Credit for Reinsurance Models. The Property & Casualty Insurance Committee re-adopted the State Flood Disaster and Mitigation Relief Model Act and adopted a Model Law in Response to the American Law Institute’s (ALI) Restatement of the Law, Liability Insurance.

The Workers’ Compensation Insurance Committee continued discussion of an NCOIL Workers’ Compensation Drug Formulary Model Act; the Special Committee on Natural Disaster Recovery discussed development of a model law relating to the private flood insurance market; the Joint State-Federal Relations and International Insurance Issues Committee continued discussion about the development of an NCOIL Insurance Business Transfer Model Act and amendments to the NCOIL Market Conduct Surveillance Model Law; the Financial Services & Multi-Lines Issues Committee continued discussion on the development of model legislation relating to insurance modernization initiatives including rebate reforms, and an Insurance E-Commerce Model Act; the Health Insurance and Long Term Care Issues Committee continued discussion of a draft Model Law on Drug Pricing Transparency and began discussions regarding the development of possible model legislation concerning short term limited duration insurance and health care sharing ministries. Discussions of these proposals will continue during interim committee calls and at the 2019 Annual Meeting in Austin, TX.

Jim Parker, Senior Advisor for Health Reform to the Secretary of Health and Human Services delivered a compelling Keynote Luncheon Address.

Two staff training sessions took place at the Summer Meeting in conjunction with the Institutes Griffith Insurance Education Foundation entitled: “Essential Education for Legislative Staff: Exploring Risk Management & Insurance Regulation Fundamentals”.

“Since there is much work that remains, there will likely be multiple committees that have interim committee calls before the Annual Meeting in December.” Considine concluded.

Committee meeting minutes can be found [here](#).

NCOIL AMENDS AND RE-ADOPTS INSURANCE FRAUD MODEL ACT

The NCOIL Financial Services and Multi-Lines Committee amended and re-adopted the Insurance Fraud Model Act at the recently concluded 2019 NCOIL Summer Meeting in Newport Beach, CA. The amendments were sponsored by Arkansas Senator Jason Rapert, NCOIL Immediate Past President.

“Insurance Fraud is a serious problem that cheats honest consumers” said Rapert. “As legislators, we need to be vigilant to protect consumers and industry from insurance fraud. There have been tremendous technological changes since this was first adopted in 1995. Updating the NCOIL Insurance Fraud Model Act is a logical way to do that.” *Con’d on Page 4*



ADVERTISE IN THE 50TH ANNIVERSARY EDITION

NCOIL will celebrate its 50th year this December at the Annual Meeting in Austin, TX. You can help support NCOIL with an advertisement in the 50th anniversary commemorative edition of the Demotech Difference that will be distributed at the meeting.

Please visit www.ncoil.org/50thanniversary for more information and pricing.

INSURANCE FRAUD MODEL ACT CON'D

Senator Rapert worked closely with the Coalition Against Insurance Fraud to update and modernize the NCOIL model, which was first adopted in 1995, and readopted periodically.

“The Coalition Against Insurance Fraud values our long-standing partnership with NCOIL and appreciates the work to amend this model” said Matthew Smith, Director of Government Affairs & General Counsel for the Coalition Against Insurance Fraud. “The Coalition worked tirelessly to update this very successful model for this century.”

The model, which has been adopted in whole or part in 28 states is updated to provide increased authority for prosecutors; streamline the proof of intent to defraud and how the intent to defraud is identified; and eliminate multiple-proof requirements in many areas to allow for greater prosecution.

“I sponsored the fraud model in my state in 2012 as chair of the Louisiana Senate Insurance Committee” said Louisiana Senator Dan “Blade” Morrish, NCOIL President. “It has proven to be a useful tool to combat fraud and I look forward to the Louisiana legislature enacting the updates as soon as possible.”

As insurance fraud moves internationally and multi-ring fraud accelerates the model allows for evidence of multi-state operations or fraud committed in another state to be used in the prosecution of insurance fraud in another state. The model also calls for – depending on individual state laws and federal bankruptcy laws – orders of restitution against people who commit fraud to be non-dischargeable in bankruptcy so that they cannot escape the restitution order.

“NCOIL has long been a leader in combating fraud” said Commissioner Tom Considine, NCOIL CEO. “There are multiple examples of our collaboration including NCOIL serving on the Coalition’s board, to working to update this model and routinely hearing updates from Coalition members regularly at NCOIL meetings.”

Further, the model allows in civil actions the recovery of attorney’s fees, and on the insurance carrier side, the model allows for the rise of the independent contractor’s outsourcing third party’s that insurance companies are using to both protect those individuals under provisions of the model and if they are the ones committing fraud, the model allows them to be held liable. The model now includes fraud in-the-part vs. fraud in-the-whole meaning that under the prior version of the model the entire claim or act had to be fraudulent before the model applied. Now, if only a portion of the claim or act such as medical billing is fraudulent, the model applies. Also, there have been a lot of changes in the past 20 years with regard to medical services, so now terms such as healing arts and pharmacology are included in the model.

A copy of the model is available [here](#).



SUMMER MEETING MINUTES

[CLICK HERE FOR MORE INFO](#)

NCOIL ADOPTS MODEL ACT CONCERNING INTERPRETATION OF STATE INSURANCE LAWS

At the recently concluded 2019 NCOIL Summer Meeting in Newport Beach, CA the NCOIL Property & Casualty Insurance Committee adopted a Model Act Concerning Interpretation of State Insurance Laws sponsored by Kentucky Representative Joe Fischer. The measure passed on a voice vote and was affirmed by the NCOIL Executive Committee.

The model is in direct response to the American Law Institute's (ALI) Restatement of the Law, Liability Insurance which has garnered significant national attention since it began development.

"As legislators, we preciously guard legislative prerogatives" said Rep. Fischer. "I am grateful to the ALI and their scholars for their willingness to engage in a constructive dialogue with NCOIL, and the work that they produce. I sponsored this measure because it is important to make crystal clear how to properly interpret state insurance laws, and to stress that laws are what legislators vote to enact and executives sign. It is not what others interpret or wish it to be."

"NCOIL has been engaged with the ALI and their scholars at multiple NCOIL meetings" said LA Sen. Dan "Blade" Morrish, NCOIL President. "I want to thank Rep. Fischer for his work on this and echo what Rep. Fischer stated – as an organization, NCOIL will guard legislative prerogatives and ensure our legislative work is protected from academics that interpret the law into something it is not."

NCOIL began a constructive dialogue with the ALI on this issue in May 2017 and then discussed it at the NCOIL Property & Casualty Insurance Committee at the 2017 NCOIL Summer Meeting. At the subsequent national NCOIL meeting in Phoenix, AZ in November 2017 there was a General Session titled "A Restatement or a NEWstatement – Examining the ALI's Proposed Restatement of the Law of Liability Insurance." The topic has been on every national meeting agenda since that first discussion in July 2017 often with ALI representatives participating.

"For more than two years over seven meetings and an additional interim committee tele-meeting, during which a Resolution on this issue was adopted, NCOIL has taken every available step to resolve this amicably" said Commissioner Tom Considine, NCOIL CEO. "There was a consistent and constructive dialogue with the ALI during this time period, and we appreciate the changes made from the initial draft. Certain select portions remain more of an ALI wish list than a statement of the majority rule of current law. NCOIL believes it is important for States to clarify when such a document is appropriate as an authority for jurists."

A full copy of the model can be viewed [here](#).

NCOIL ANNUAL MEETING &

50TH ANNIVERSARY



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