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NCOIL "Summer" Meeting
September 24th—26th
Alexandria, VA
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Rep. Matt Lehman, IN
President



Thomas B. Considine
NCOIL CEO



Asm. Ken Cooley, CA
Vice President

FROM THE PRESIDENT'S DESK

Pre-emption Watch: States' Jurisdiction at Risk

As we all know, 75 years ago, Congress wisely returned the regulation of the business of insurance to the States. We who serve in the States' Legislatures must remain vigilant against federal preemption and take the steps necessary to maintain our jurisdiction.

One preemption clock, on reinsurance, began ticking in September 2017, and our time to act will expire in September 2022. Thus, five years has become two.

On June 25, 2019 the National Association of Insurance Commissioners (NAIC) adopted necessary amendments to its Credit for Reinsurance Model Law and Regulation (Reinsurance Models). The need for these amendments arose in order to incorporate provisions relating to reinsurance collateral requirements contained in what are commonly called the "Covered Agreements" but more formally known as the Bilateral Agreement Between the United States and the European Union on Prudential Measures Regarding Insurance and Reinsurance, and a substantially similar agreement between the United States and the United Kingdom, which were signed in September 2017 and December 2018, respectively. Pursuant to the text of the Covered Agreements, our State Legislatures must adopt the amended NAIC Reinsurance Models, which NCOIL has endorsed, or the States will be pre-empted.

NCOIL did not favor the Covered Agreements in the form in which they were signed because they contained provisions we opposed relating to reinsurance collateral. NCOIL nonetheless believes it is extremely important for states to adopt the Reinsurance Models, as amended, because pursuant to the terms of the Covered Agreements, the States face federal preemption of our reinsurance laws unless the appropriate reinsurance collateral reforms are adopted into state law within 60 months from September 2017 – the date the Covered Agreement with the EU was signed. Thus, the "drop dead" date when federal preemption will occur absent state legislative action is September 2022. Additionally, there is a separate, shorter 42-month deadline at which time the federal government will begin conducting an assessment of remaining non-compliant states. This will occur in February 2021.

Our latest data indicates 14 states have adopted the amended Reinsurance Models, and 14 other states having pending legislation aimed at doing so. I applaud my colleagues from those states for taking such action. I urge all my fellow legislators around the country to introduce, advance and pass the amended Reinsurance Models as soon as the calendar and the rules allow in your State. Again, this is critical in order to guard against federal preemption of a key element of the state-based system of insurance regulation – a system that has effectively protected consumers and helped create the largest, most competitive and innovative insurance market in the world.



Asm. Kevin Cahill, NY
Treasurer



Rep. Joe Fischer, KY
Secretary



Sen. Jason Rapert, AR
Immediate Past President



Sen. Travis Holdman, IN
Immediate Past President

President's Desk Cont'd

Lastly, I note increasing interest & activity in Congress around the very core of the business of insurance, such as risk assessment and rating. We at NCOIL cannot stand idly by while this potentially pre-emptive activity occurs; we must meet Congressional activity with our own vigilance and initiative to demonstrate the States' own recognized excellence in insurance regulation.

Hope to see you in Old Town for our delayed "Summer" National Meeting.

Regards,

Matt

¹ Insurance had traditionally been regulated by the States until the US Supreme Court declared it interstate commerce; however, within a year Congress adopted the McCarran-Ferguson Act to return it to the States.

INSURANCE INDUSTRY PROVIDES STRENGTH AND STABILITY DURING TURBULENT TIMES

*By: The Industry Education Council **

It seems a century ago that we were gathered in a hotel ballroom in Charlotte listening to Nick Davidson, Acting Director of Public Health of the South Carolina Department of Health and Environmental Control, who shared up-to-the-minute scientific, medical, and public health knowledge and thinking on the novel coronavirus that was about to change all of our lives. That NCOIL Spring Meeting was the last trip many of us made.

In the months since that day in March, the insurance industry has been the focus of incredible scrutiny and attention.

Insurers across lines have stood up under that scrutiny during this national pandemic crisis. They have not only honored their commitments to policyholders and communities, but they have gone beyond their normal role providing financial strength and security in times of duress by offering premium reductions, cancellation forbearance, and making significant charitable contributions across the country.

The industry's strength going into the pandemic – still evident months in and with no indication that it will wane – reflects the inherent strength of our state-based system of insurance regulation. Ours is a large and diverse country with a huge range of geography, demography, cultures, and economic engines. State-based insurance regulation ensures that each state's insurance market provides its communities the best products at the most economical rates.

State legislators charged with insurance matters across the country have shown courage resisting calls to retroactively amend insurance contracts to require coverage of excluded pandemic risks, which several studies have shown would have been catastrophic for insurers – as well as established contract law.

The industry has deftly responded to regulatory changes relating to cancellation forbearance, and have voluntarily responded to the needs of their insureds and communities.

For example:

- The Insurance Information Institute (Triple-I) estimated on June 5 that U.S. auto insurers would return over \$14 billion to consumers reflecting reduced driving during the pandemic.
- The Insurance Industry Charitable Foundation (IICF) estimated on June 15 that U.S. insurers and their charitable foundations had donated \$280 million in response to the pandemic. They say an additional \$150 million has been contributed internationally.

*This column is a submission of the Industry Education Council (IEC) and reflects the IEC's perspective on the issue(s) discussed. The views, thoughts, and opinions expressed in the column do not necessarily reflect those of NCOIL.

REGISTRATION FOR NCOIL “SUMMER” MEETING IS OPEN

Registration for the 2020 NCOIL “Summer” Meeting at the Hilton Alexandria Old Town in Alexandria, VA from September 24th—26th is open.



REGISTER NOW

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CORPORATE &
INSTITUTIONAL
PARTNERS

CIP MEMBERS

**2020 CIP
Planning Meeting**

**Sept. 23 –24, 2020
Hilton Alexandria
Old Town
Alexandria, VA**

**Please submit your
registration form or reach
out with any questions
to:**

**Cara Zimmermann
czimmermann@ncoil.org
or
Cindy McLavish
cmclavish@ncoil.org**

The meeting will start immediately after the CIP meeting on the 24th and end the day with a Welcome Reception. A full day of policy committee meetings will continue on the 25th beginning with the Welcome Breakfast in the morning, keynote luncheon, and the CIP and Sponsor Reception in the evening. The meeting will conclude on the 26th around 1:30/2:00 p.m.

See the full tentative schedule on page 6 or view at the NCOIL website [here](#)

DON'T FORGET TO BOOK YOUR HOTEL!!!

*The hotel block closes on **September 1st***

Legislators book here:



General Participants book here:



IEC Quarterly Column Cont'd

- Health insurers have eliminated copays, coinsurance, and prior authorization requirements for COVID 19 testing and treatment, and have encouraged and expanded telehealth options to increase access to care.
- Life insurers are “meeting the moment” for the American people in every way by listening to needs, organizing action, and showing compassion. The industry is responding rapidly in the states on issues that are important to consumers – for instance extending grace periods to give policyholders who need it more time to pay their premiums. Learn more about how life insurers are #MeetingTheMoment [here](#).
- In workers compensation insurance, the National Council on Compensation Insurance (NCCI) recognized that the circumstances around COVID-19 are extraordinary and, as a result, submitted for state regulators’ consideration an expedited rule change to address the question of payroll for employees who are being paid but are not working as it relates to the basis of premium. These payments will not be used in the calculation of policyholder premium.

All institutions – public and private – never prove their value in prosperous or even usual times. It is in challenging times like these that they prove their worth. So far, in the current pandemic, the insurance industry has met the test.

About the IEC

The IEC’s primary mission is to support the education of legislators through NCOIL. Our members include insurers, state and national trade associations, and other parties with a stake in the insurance public policy decisions formulated at NCOIL, including those involved in pharmaceuticals, auto repair, and healthcare providers. Our membership also includes rating agencies and law firms. Under its bylaws, the IEC is prohibited from lobbying.

Future NCOIL Meetings:

“Summer” 2020
September 24–26
Alexandria, VA

Annual 2020
December 9—12
Tampa, FL

Spring 2021
March 11—14
Washington, DC

Summer 2021
July 14—17
Boston, MA

Annual 2021
November 17—20
Scottsdale, AZ

Spring 2022
March 3—6
Las Vegas, NV

Summer 2022
July 13—16
Jersey City, NJ

Annual 2022
November 16—19
New Orleans, LA

NCOIL HEALTH INSURANCE & LONG TERM CARE ISSUES INTERIM COMMITTEE MEETING

The National Council of Insurance Legislators (NCOIL) Health Insurance and Long-Term Care Issues Committee (Committee) held an interim virtual meeting on August 21st. The Committee is chaired by New York Assemblywoman Pamela Hunter and vice-chaired by Arkansas Representative Deborah Ferguson. The purpose of the interim meeting was to conduct a final discussion on the NCOIL Short Term Limited Duration Insurance Model Act before a vote is taken during the NCOIL “Summer” Meeting in September; determine the next steps for the NCOIL Health Care Sharing Ministry Registration Model Act; discuss air ambulance subscription membership products; and begin the process of developing an NCOIL Telemedicine Model Act.

NCOIL President Matt Lehman (Rep. – IN) said, “I commend Chair Hunter and Vice-Chair Ferguson for tackling critical health insurance issues. This Committee always has a very packed agenda. It is even more important now with our nation battling this pandemic that NCOIL acts in a timely manner to discuss solutions that can provide Americans with the security and comfort they need.”

Chair Hunter stated, “I want to thank everyone who participated in the meeting. I especially want to thank Indiana Representative Martin Carbaugh for his work as sponsor of two Models on the agenda. It was important to have one more discussion on the NCOIL Short Term Limited Duration Model Act before the Committee takes a vote in September at the ‘Summer’ Meeting, and to conduct other business. The Committee still has a lot of work to do on other issues but I am confident that we will continue to make progress in Alexandria.”

“I am particularly looking forward to continuing the discussions regarding the development of an NCOIL Telemedicine Model Act and I would be proud to sponsor such a Model. The use of telemedicine has grown rapidly throughout this global health emergency and there appears to be almost unanimous agreement that once we finally return to a sense of normalcy, the expansion of telemedicine is here to stay,” concluded Chair Hunter.

The NCOIL Healthcare Sharing Ministry Registration Model Act was withdrawn from consideration by Representative Carbaugh. The Model was extensively discussed starting last July and has garnered a wide range of opinions.

“After having discussed the Model at three NCOIL national meetings and hearing further thoughts during this virtual meeting, it became clear that it was not going to be possible to obtain a consensus

Cont’d on Page 5

NCOIL PROPERTY & CASUALTY INSURANCE COMMITTEE HOLDS VIRTUAL INTERIM MEETING

The National Council of Insurance Legislators (NCOIL) Property & Casualty Insurance Committee (Committee) held an interim conference call meeting on July 24th. The purpose of the interim meeting was to discuss the first draft of the NCOIL Distracted Driving Model Act, and to provide an update on the National Association of Insurance Commissioners (NAIC) Casualty Actuarial and Statistical (C) Task Force’s (CASTF) Regulatory Review of Predictive Models White Paper.

NCOIL President Matt Lehman (Rep. IN) appointed Kentucky Representative Bart Rowland as Chair of the Committee. The prior Chair, Georgia Representative Richard Smith was recently named Chair of the Georgia House Rules Committee, a position that comes with enormous responsibility and time demands. In stepping down as Chair of the NCOIL P&C Committee, Rep. Smith did not want the Committee to be held back at all due to his schedule.

NCOIL President Lehman, said, “Richard Smith is a great man and has been a longtime supporter and active member of NCOIL. Richard will continue to stay involved with NCOIL and in fact participated in this meeting. When Richard notified us of his decision, we reflected on an immediate succession plan and Bart Rowland is the person that sprung to mind. Bart has been an NCOIL leader for years and is universally respected in the organization. He has my full confidence and support.”

“Rep. Smith has been a wonderful leader of the P&C Committee in past years to present and while we are sad that he will not be as involved with us this year, we wish him all the best on his new assignment as Chair of the GA House Rules Committee. We are very pleased that Rep. Rowland is up for the task and we feel that he is exactly the type of leader NCOIL needs to take over this position,” stated NCOIL CEO, Commissioner Tom Considine. “Bart has been a ‘go to’ leader here at NCOIL for as long as I’ve been here,” Considine concluded.

Cont’d on Page 6

Health Committee Interim Cont'd

as to what should or should not be in the Model,” stated Rep. Carbaugh. “I remain passionate about the topic and may end up introducing another Model down the road, but for now it is best for the Committee to focus on other issues.”

There were over 100 participants on the interim virtual meeting which included 16 legislators from 13 states. In addition to the robust dialogue from legislators, NCOIL heard perspectives from a wide array of interested parties including the Health Benefits Institute, Horizon Government Affairs, the American Medical Association (AMA), America’s Health Insurance Plans (AHIP), the Alliance for Healthcare Sharing Ministries, and others.

Additionally, Chris Myers, Executive Vice President of Reimbursement & Strategic Initiatives at Air Methods Corporation, provided a presentation on the topic of Air Ambulance Subscription Membership Products. This topic will continue to be discussed at future NCOIL national meetings.

Vice-Chair Ferguson said, “I want to echo Chair Hunter’s remarks and I look forward to continuing discussing these issues in a few weeks. As a dentist in my career outside of the legislature, the issues discussed in the Health Committee are topics that I am passionate about and I genuinely feel that the work we are doing changes lives in a beneficial way.”

NCOIL CEO, Commissioner Tom Considine said, “This call demonstrates that NCOIL Model Bills do not always result in Model Acts; sometimes the process demonstrates that an issue is not ripe for a Model’s passage. Additionally, despite unique circumstances for the NCOIL ‘Summer’ Meeting next month, we already are seeing a great turnout of both in-person and virtual registrants. We encourage all who cannot travel to the in-person meeting in Alexandria due to health concerns to please participate virtually. Dialogue needs to continue between legislators and interested parties to accomplish the various goals NCOIL set out to tackle in 2020.”

The video recording from the meeting is posted on the NCOIL website and can be viewed here: <https://youtu.be/OSfVo138sg>

All material discussed during the meeting can be viewed here: <http://ncoil.org/ncoil-health-insurance-long-term-care-issues-committee-interim-meeting-august-21-2020-100-pm-230-pm-est/>

NCOIL and The Institutes Griffith Foundation Collaborate on Fundamentals of Insurance Webinars

The Institutes Griffith Insurance Education Foundation (“The Institutes Griffith Foundation”), in collaboration with the National Council of Insurance Legislators (“NCOIL”), presented complimentary, educational webinars on the fundamentals of insurance. Consistent with The Institutes Griffith Foundation’s Mission, the webinars were non-partisan and non-advocative, while both interesting and thought-provoking. Featuring Professor David Eckles of the Terry College of Business at the University of Georgia, this online program:

- Provided brief background on the role and structure of NCOIL and The Institutes Griffith Foundation;
- Explored the history and evolution of our state-based system of insurance regulation;
- Considered various approaches to the regulation of insurance product approval; and allotted time for a question and answer session.

The highly rated program will be available for viewing at NCOIL’s Youtube channel on September 9th: <https://www.youtube.com/channel/UCe09Z77z4q6HG1kv3fDG7Bq>

VIRGINIA CLE

The 2020 NCOIL “Summer” Meeting has been approved for continuing legal education credits.

The specific number of credits approved will be determined upon the conclusion of the meeting. This is the fourth meeting in a row where CLE credits have been available.

Registration is now open at <http://ncoil.org/register-now/>

P&C Insurance Interim Meeting Cont'd

The Committee received an update on the work of the NAIC's Casualty Actuarial and Statistical (C) Task Force's (CASTF). Specifically, CASTF's work in developing a Regulatory Review of Predictive Models White Paper. This was a follow-up from the interim meeting of the NCOIL Executive Committee on July 1st during which the Committee adopted a Resolution, sponsored by California Assemblyman Ken Cooley, NCOIL Vice President, "Urging the NAIC To Refrain from Intruding on the Constitutional Role of State Legislators" in response to the work of CASTF. However, while the Committee did adopt the Resolution, it was agreed upon that the Resolution would be held pending further discussion with the NAIC in the hope that the work of the CASTF might be altered.

Considine provided a briefing during this meeting that there have been officer level discussions on the issue, but more need to occur.

The Committee also introduced and discussed the first draft of an NCOIL Distracted Driving Model Act, sponsored by Ohio Senator Bob Hackett and Asm. Cooley. Additionally, Cathy Chase, President of Advocates for Highway & Auto Safety, provided a presentation on the issue.

Asm. Cooley stated, "It is vital that we create this type of legislation for states to use as guidance as they develop legislation beyond the no-texting ban. Developing the appropriate level of penalties is critical. We hope that everyone will get behind this effort in order to improve traffic safety, reduce motor-vehicle related injuries and fatalities, strengthen enforcement, and signal to public and app developers what 'driver safety' capabilities their products should have."

Sen. Hackett said, "I echo Asm. Cooley's comments. Distracted driving has become a widespread, deadly problem in our country. I think the first draft of the Model is at a great starting point and it is our goal as sponsors to move this forward in a timely manner and continue the drafting discussions until we have it right. The consequences of this Model can actually be life or death. The research shows that the consequence to distracted driving is death more often than not. We have the opportunity to change that outcome as state legislators."

Additionally, the Committee provided the opportunity for discussion on the five (5) NCOIL Model Laws scheduled for re-adoption at the upcoming NCOIL "Summer" Meeting in September. Those Models are: Post-Assessment Property and Liability Insurance Guaranty Association Model Act (originally adopted November 2007; amended March 2015); Model Act Regarding Medicaid Inception of Insurance Payments (originally adopted November 2014; amended March 2015); Storm Chaser Consumer Protection (adopted July 2005); Model Act Regarding Use of Credit Card Information in Personal Insurance (originally adopted November 2002; re-adopted November 2005; amended 2009; re-adopted November 2015); and Model Act to Regulate Insurance Requirements for Transportation Network Companies and Transportation Network Drivers (adopted July 2015).

Chair Rowland stated, "It is an honor to be appointed by my colleagues to Chair the NCOIL Property & Casualty Insurance Committee. As we all saw from the interim meeting, this Committee has a lot on the agenda for the upcoming 'Summer' Meeting and we are just beginning to dive into some of these issues as well as revisiting many important issues. I am humbled that NCOIL is allowing me to step up to this leadership role, and I was pleased with the initial discussions during the interim meeting last week. I urge all parties to keep the conversations going in order to develop high quality public policy for states to consider adopting. That is always the goal of NCOIL public policy."

There were over 100 participants on the interim virtual meeting which included 17 legislators from 15 states. In addition to the robust dialogue from legislators, NCOIL heard perspectives from a wide array of interested parties including the National Association of Mutual Insurance Companies (NAMIC), Uber, the National Conference of Insurance Guaranty Fund (NCIGF), the American Property Casualty Insurance Association (APCIA), the Independent Insurance Agents and Brokers of American (IIABA),

NCOIL notified all meeting attendees during the meeting upon realizing that there was a problem with Zoom access, stating that it had pre-arranged to have a 500-participant capacity and this function was not automatically enabled by Zoom. "That was awful, just awful," stated Considine. "We'll refund double anyone's registration fee who signed up in advance but could not get through." Please reach out to Cara Zimmermann czimmermann@ncoil.org or Cindy McLavish cmclavish@ncoil.org at the NCOIL National Office if you registered for the interim meeting and could not get in through Zoom.

The video recording from the meeting will be posted on the NCOIL website [here](#). Minutes are available [here](#). All material discussed during the meeting, including the draft of the Distracted Driving Model, can be viewed [here](#).

NCOIL 2020 "SUMMER" MEETING TENTATIVE SCHEDULE

THURSDAY, SEPTEMBER 24TH

Joint State-Federal Relations & International Insurance Issues Committee	3:00 PM	-	4:00 PM
Special Committee on Natural Disaster Recovery	4:00 PM	-	4:30 PM
Property & Casualty Insurance Committee	4:30 PM	-	6:00 PM
Welcome Reception	6:00 PM	-	7:00 PM

FRIDAY, SEPTEMBER 25TH

Welcome Breakfast	8:15 AM	-	9:45 AM
Networking Break	9:45 AM	-	10:00 AM
Workers' Compensation Insurance Committee	10:00 AM	-	11:30 AM
Health General Session	11:30 AM	-	12:45 PM
Luncheon with Keynote Address	12:45 PM	-	2:15 PM
NCOIL-NAIC Dialogue	2:15 PM	-	3:30 PM
Networking Break	3:30 PM	-	3:45 PM
General Session	3:45 PM	-	5:00 PM
CIP Member & Sponsor Reception	5:45 PM	-	6:45 PM

SATURDAY, SEPTEMBER 26TH

Financial Services & Multi-Lines Issues Committee	9:00 AM	-	10:30 AM
Life Insurance & Financial Planning Committee	10:30 AM	-	11:45 AM
Health Insurance & Long Term Care Issues Committee	11:45 AM	-	1:15 PM
Business Planning Committee and Executive Committee	1:15 PM	-	2:00 PM



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