



NCOILETTER

January 2006

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NATIONAL CONFERENCE OF INSURANCE LEGISLATORS

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LEGISLATORS TO REVIEW OPTIONS FOR NCOIL MARKET CONDUCT MODEL LAW

Market conduct surveillance reform will take center stage at a special February 24 NCOIL meeting on a *Market Conduct Surveillance Model Law*, initially adopted by NCOIL in February 2004. The bill will be considered as a possible alternative to the current NCOIL-National Association of Insurance Commissioners (NAIC) model act, which has achieved little success in the states due largely to lack of regulatory support.

NCOIL amended and revised its original version in July 2004 in response to regulator concerns. The NAIC subsequently adopted the amended model law as a joint work product on September 12, 2004. The bill, in general, would establish a framework for insurance department market

conduct actions, including processes and systems for identifying, assessing, and prioritizing market conduct problems that have a substantial adverse impact on consumers, policyholders, and claimants.

The upcoming special session, scheduled from 3:45 to 5:30 p.m. during the NCOIL Spring Meeting, will include consideration of commentary from interested parties, submitted in response to a State-Federal Relations Committee request at the 2005 Annual Meeting in November. The Property-Casualty Insurance Association of America (PCI) and the American Insurance Association (AIA) offered comments, and the Center for Economic Justice (CEJ) and Consumer Federation of America (CFA) resubmitted remarks

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NCOIL TO CONSIDER MEGA-CATASTROPHE, BUILDING CODE OPTIONS AT SPRING MEETING

Lawmakers at the February 23 through 26 NCOIL Spring Meeting in Fort Lauderdale, Florida, will examine options for implementing a national mega-catastrophe program and will discuss the impact that effective state building codes may have on natural disaster mitigation. The sessions recognize the time-sensitivity of the natural catastrophe debate and continue NCOIL's efforts to promote an appropriate national program.

A February 23 Subcommittee on Natural Disaster Insurance Legislation meeting will feature consideration of amendments to an NCOIL *Resolution Regarding Natural Disaster Insurance Issues*, first adopted in July 2004. The

revisions would recognize the impact that Hurricanes Katrina, Rita, and Wilma have had on the disaster legislation discussion; acknowledge the efforts of the National Association of Insurance Commissioners (NAIC) regarding development of a national mega-catastrophe program; and express strong concerns with aspects of the NAIC proposal.

The draft amendments also would commit NCOIL to working in concert with the NAIC; support a federal role so long as that role did not result in a net increase in consumer premiums; welcome additional dialogue regarding merging natural and man-made catastrophe risks into a single nationwide program; and reiterate

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MEGA-CATASTROPHE

(continued from page 1)

Regulators released the current form of their mega-disaster plan, which outlines a layered approach toward catastrophe management, on December 1. At the federal level, the program contemplates no role for state legislators, though NAIC participation would be substantial.

NCOIL's interest in working toward creation of tax-deferred catastrophe reserves.

Regulators released the current form of their mega-disaster plan, which outlines a layered approach toward catastrophe management, on December 1, 2005. At the federal level, the program contemplates no role for state legislators, though NAIC participation would be substantial.

When adopted in 2004, the NCOIL resolution furthered lawmakers' commitment to pursuing natural disaster insurance legislation and supported investigation into various catastrophe options, including, among others, merging natural and man-made risks into a single program and folding natural disasters into the National Flood Insurance Program (NFIP).

Regarding building codes, a February 25 NCOIL general session will

look at the public policy surrounding enactment of effective standards, as well as the uncertainties and solutions related to proper community enforcement. The impact of efficient codes on premiums and availability, as well as the fallout for consumers, will be addressed. The discussion, entitled *Reassessing State Building Codes: Mitigation and Enforcement*, will lay groundwork for NCOIL activity on the issue later this year.

Speakers in the session include Jeff Burton of the Institute for Business and Home Safety (IBHS), Mark Smith of Insurance Services Office (ISO), Julie Gackebach of the Property Casualty Insurers Association of America (PCI), and Leonard Brevik of the National Association of Professional Insurance Agents (PIA).

The February 23 Subcommittee meeting will take place from 9:15 to 10:00 a.m.; the February 25 general session will run from 10:00 to 11:15 a.m.

2006 NCOIL OFFICERS AND COMMITTEE CHAIRS

NCOIL thanks outgoing President Rep. Craig Eiland, TX, for his distinguished leadership in 2004-2005 on issues including broker compensation/disclosure, re-insurance collateral, federal preemption, and market conduct reform, among others.

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A complete list of 2006 NCOIL Committee chairs is available at www.ncoil.org.

PBMS: LEGISLATORS TO EXAMINE NEED FOR REGULATION AT SPECIAL NCOIL MEETING

In response to growing legislative concerns regarding the regulation and operation of pharmacy benefit managers (PBMs), the NCOIL Health, Long-Term Care, and Health Retirement Issues Committee will hold a special meeting to debate the issue on February 23, during the NCOIL Spring Meeting in Florida.

The two-hour session, scheduled from 1:30 to 3:30 p.m., will feature presentations by two opposing panels—the first representing academic/pharmacy views, the second, PBMs and health insurers—followed by rebuttals and closing remarks. The meeting will pave the way for further NCOIL activity later this year.

PBMs contract with entities such as managed care organizations to oversee pharmacy network management and drug utilization review, among other efforts. They claim to save consumers money.

Of particular interest to legislators at the special meeting is whether PBMs should have a fiduciary duty, concerns related to PBM transparency, and whether PBMs should be regulated, and if so by whom.

Speakers on the first panel include Dr. Robert Garis of the School of Pharmacy and Health Professions at Creighton University; Gunnar Marich of PBM Analyzers; and Michael Saxl of Maine Street Solutions. The second panel includes Peter Harty of

Medco Health Solutions; Allen Horne of Caremark Rx; and Randi Reichel of America's Health Insurance Plans.

The special meeting follows a July 2005 NCOIL general session, in which experts addressed differences between types of PBMs; whether disclosure of PBM agreements would violate trade secrecy protections; what costs might be incurred as a result of PBM regulation; whether PBMs engage in anti-competitive practices; and issues regarding PBMs' role in the Medicare Part D drug benefit.

Also at the February Spring Meeting, legislators will hear discussion regarding the plight of health insurance regulation in a February 25 session entitled *Fragmented Health Insurance: Have States Lost Control?* Panelists will address the federal pressures and state mandates that have led to the current fragmented system; the consequences of proposed association health plans (AHPs) and related legislation; and ways that legislatures might retain regulatory control, minimize consumer costs, and protect the uninsured and underinsured.

Speakers include Dr. Helen Doeringhaus of The Moore School of Business, James Kinder of the Self-Insurance Institute of America, Jeff Lemieux of America's Health Insurance Plans, and Lena O'Rourke of Families USA. The session is scheduled for 8:00 to 9:45 a.m.

Of particular interest to legislators at the special NCOIL meeting is whether PBMs should have a fiduciary duty, what concerns relate to PBM transparency, and whether PBMs should be regulated, and if so by whom.

MARKET CONDUCT

first made in early 2004.

As they began their review of the NCOIL-NAIC model law at the Annual Meeting, legislators identified three NCOIL options: 1) return to the original NCOIL model act; 2) reevaluate the NCOIL-NAIC draft; or 3) consider a recently enacted Texas market conduct bill based on the NCOIL-NAIC model.

The initial NCOIL model law was

the culmination of more than four (4) years of study by the Insurance Legislators Foundation, NCOIL's educational and research arm. The effort included hearings, special meetings, and two studies prepared by PricewaterhouseCoopers that found, among other things, a wide discrepancy between the scope and purpose of market conduct examinations and little coordination among the states.

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SAVE THE DATE

The NCOIL
Spring
Meeting

February 23
through 26,
2006

Fort Lauderdale,
Florida

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