



NCOIL Seeks to Guard Against Stranger-Initiated Annuities

Responding to well-publicized Rhode Island lawsuits on stranger-initiated annuity transactions (STAT), NCOIL legislators at the Boston Summer Meeting will consider what can be done to safeguard consumers against the controversial—and some fear growing—practice. In STAT, investors purchase annuity death benefits on dying patients as a way to play the stock market without risk of losing an initial investment.

The July 9 *Life Insurance & Financial Planning Committee* discussion will explore how to approach regulating STAT and what existing mechanisms are in place that can be utilized, or if a model is warranted.

During the 1:30 until 3:00 p.m. meeting, Rhode Island Superintendent Joseph Torti will highlight legal issues surrounding (cont. on page 3)

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FINANCIAL REFORM: CONFEREES CLEAR PATH TO FINAL FIO VOTE

In the pre-dawn hours of June 25, U.S. House and Senate conferees ended a marathon 20-hour session with approval of amendments to H.R. 4173, a long-anticipated financial reform bill. Among other things, the vote—which came a day sooner than the deadline pushed by Conference Committee Chair Rep. Barney Frank (D-MA)—meant that the Federal Insurance Office (FIO) versus Office of National Insurance (ONI) debate was nearing an end.

The NAIC, consumer advocates, insurers and their agents, and certain trades had advocated strongly for the House's less intrusive FIO, while pro-Fed financial

services companies represented by the ACLI, AIA, and ABIA, among others, had argued for the Senate ONI. The initial 4173 draft reviewed by the conference committee contained ONI language.

The exact process for amending the bill spurred lawmakers to make arguably obscure procedural motions. In essence, Frank and other House conferees—on the first day of negotiations—asked Senate members to use FIO language rather than ONI. Senators largely complied—accepting provisions to require the Treasury Secretary and U.S. Trade Representative (USTR) to work jointly on new international agreements and to consult with Congress throughout. (cont. on page 4)

CHAIRMAN FRANK TO TALK FINANCIAL REFORM AT NCOIL MEETING

As the world readies for a U.S. Wall Street overhaul, Chairman Barney Frank (D-MA)—a lead architect of the federal legislation—will talk financial reform to legislators and others gathered at the July 7 through 11 NCOIL Summer Meeting in Boston. Chairman Frank, who heads the U.S. House Financial Services Committee, will speak to H.R. 4173, the *Dodd-Frank Wall Street Reform and Consumer Protection Act*, during a Thursday, July 8, session entitled *Financial Reform: An Hour with Barney Frank*. The meeting will run from

8:00 to 9:00 a.m.

NCOIL President Rep. Robert Damron (KY), in announcing the event, recognized that "Chairman Frank has been a driving force on



financial reform throughout our nation's financial crisis. We appreciate his willingness to engage state legislators in Boston," the NCOIL officer (cont. on page 2)

Chairman Frank...

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said, "and welcome his insights regarding insurance regulation and the future role of the states."

Rep. Damron also commented that "As a former state lawmaker, Chairman Frank has a unique understanding of the insurance industry. NCOIL legislators look forward to his views on how several controversial insurance provisions may play out."

Rep. Frank recently chaired a House-Senate conference committee that completed its initial work on the over 2,000-page bill during the pre-dawn hours of June 25. *H.R. 4173 was designed, in part, to restructure banking regulation and put an end to the notion of "too big to fail."* The bill would create a new Financial Stability Oversight Council to monitor financial market risks and authorize a new process to liquidate failing financial firms. *H.R. 4173 would also create a Bureau of Consumer Financial Protection and establish new rules for derivatives transactions, among other things.*

To accommodate the special meeting with Chairman Frank, the NCOIL Workers' Comp Committee will now meet from 9:00 to 10:30 a.m. on Thursday, July 8. The Property-Casualty Insurance Committee will gather to discuss an aftermarket crash parts model from 10:30 a.m. to 12:00 p.m. ■



Legislators Seek Compromise on Bill to Restrict Dental Fees

At its July Summer Meeting in Boston, NCOIL could join a growing list of states establishing stricter oversight of insurer and dental provider relationships—by acting on a substitute amendment to a draft *Model Act Banning Fee Schedules for Uncovered Dental Services*.

The substitute, based on newly enacted Virginia and Washington laws as well as a pending California bill,

would restrict insurers from mandating fees for services other than those reimbursable under a contract and would prohibit dentists from charging more for a "covered service" after the annual maximum has been met.

The substitute—which aims to allay concerns that consumers may be vulnerable to higher out-of-pocket costs—

essentially would replace a model, introduced in November 2009, based on a first-of-its-kind Rhode Island law. ■

"The substitute...aims to allay concerns that consumers may be vulnerable to higher out-of-pocket costs..."

BP OIL SPILL
NCOIL to explore claims, coverage, other insurance impacts

BOSTON SUMMER MEETING
Saturday, July 10
12:00 — 12:30 p.m.

NCOIL Committee Looks to Finalize Balance Billing Disclosure Model

Seeking to clarify a confusing system of medical billing, legislators on July 10 will move to finalize a controversial draft *Healthcare Balance Billing Disclosure Model Act* that could mean fewer costly surprises for consumers. The model—which is based on Texas and Louisiana laws—responds to growing calls for transparency among hospitals, hospital-based providers, and insurers and hinges on disclosure and accountability.

At the NCOIL Boston Summer Meeting, members of the Health Committee will review issues including disclosure requirements specific to health insurers, Web-site listings, penalties, and definitions. In 2010, the Committee held three conference calls and a special working session at the March Spring Meeting to develop the draft—with input from consumer, insurer, physician, and hospital representatives.

Balance billing occurs when doctors bill their patients charges that remain after insurer reimbursement. The practice is common when physicians do not participate in the same networks as the hospitals in which they practice. ■



NCOIL TO ANALYZE FUTURE MEDICAID FUNDING

Medicaid spending—already a sizeable expense—will increase in most states when healthcare reform kicks in and millions more become eligible for the state-federal programs. On Thursday, July 8, in a widely anticipated NCOIL session at the Boston Summer Meeting, legislators will explore the short and long-range fiscal consequences of expansion under the *Patient Protection and Affordable Care Act*—and consider issues such as

whether promised federal aid will be enough and if, in the end, states will bear the extra expense. The session also will examine other reform changes that may impact state budgets.

The 1:15 to 3:00 p.m. discussion, entitled *Paying for It: Funding Challenges Integrating Medicaid, Medicare & Private Plans*, will feature Rick Fenton of the National Association of State Medicaid Directors (NASMD), Scott Pattison of the National Association of State Budget Officers

(NASBO), and state insurance regulators.

The discussion will be part of a series of Summer Meeting events, beginning on July 7, that will focus on healthcare reform implementation. Sessions will address, among other things, deadlines for complying, how to set up state exchanges, integration with current state laws, and impacts on non-health insurance lines—and will include a special July 8 keynote address by NGA Chair Governor Jim Douglas (VT). ■

NCOIL ...

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his state's controversy—as well as the influence of Rhode Island insurable interest, anti-rebating, and anti-fraud laws.

Connecticut Insurance Commissioner Thomas Sullivan, who chairs the NAIC Life Insurance & Annuities (A) Committee, will detail regulator findings from a May 20 NAIC STAT hearing and will comment on possible next steps. Among other things, he will address the potential role of a newly revised NAIC *Suitability in Annuity Transactions Model Regulation*, which regulators first passed in 2003.

The NCOIL Life Insurance Committee also will investigate whether STAT occurs with non-variable annuities, if insurers should more closely examine relationships between annuitants and beneficiaries, and how federal securities laws apply.

In STAT, an investor induces a terminally ill patient to purchase an annuity—often by paying him or her a small fee—and to name the investor as beneficiary. When the patient dies, the investor is guaranteed a minimum return, even if the investor's stock-market selections do poorly. ■

AFTERMARKET PARTS, AUTO BODY STEERING



Join NCOIL lawmakers in Boston to tune up regulation of aftermarket crash parts and insurer auto body steering.



NCOIL SUMMER MEETING
Boston, Massachusetts
July 7 through 11



NCOILetter

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Opinions expressed in the
NCOILetter do not necessarily
reflect NCOIL views or opinions.
The *NCOILetter* is published by
Nolan Associates.

FINANCIAL REFORM

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Senators rejected two major items, however.

Senators declined a proposal to limit the scope of new international agreements. Also—arguing that the federal *Administrative Procedure Act* already laid out a process for judicial review—the Senators rejected making courts rule on preemption disputes *de novo*—meaning without deference to the Treasury Department. With neither chamber willing to compromise, conferees directed staff to work behind closed doors to develop consensus language.

The result of their work, approved on June 23, mostly tracked the House bill by maintaining the *de novo* consideration and replacing the 4173 “covered agreements” definition with a modified version of what the House had passed. The adopted language required any preemption of state law to achieve a level of con-

sumer protection “substantially equivalent” to that law.

NCOIL and the National Conference of State Legislatures (NCSL) on June 4 sent a letter to conferees expressing concern that the ONI and the “less onerous” FIO would “open the door for further federal intrusion on states’ right to regulate the business of insurance.” The letter urged inclusion of state banking, securities, and insurance regulators on a proposed Financial Services Oversight Council—which conferees did on June 17.

Though President Obama asked Congress to send him a bill before the July 4 recess, Sen. Robert Byrd’s (D-WV) death put in doubt Senate Dems’ ability to get 60 votes needed to prevent a filibuster. This led conferees to reopen a provision—and delay final House and Senate votes—regarding a \$19 billion industry tax. ■