

## NCOIL to Take Close Look at ACA Underwriting Rules

With the latest batch of Affordable Care Act (ACA) regulations taking effect on January 1, legislators at the NCOIL Spring Meeting will examine how new rules change underwriting and what that means for impending premiums.

Invited panelists for the session, entitled *Putting a Premium on Health: The Affordable Care Act and Underwriting*, include Joyce Bohl of the American Academy of Actuaries (AAA), James O'Connor of Milliman, Tim Jost of Washington & Lee University, and a health insurer representative to be determined.

The session, the latest in a series of NCOIL special sessions investigating various aspects of ACA, addresses recent changes in underwriting mandated by the ACA, including those taking effect this year, such as essential health (cont. on page 3)



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**NCOIL SPRING MEETING**  
March 7 to 9  
Savannah, GA



## FIO SEEKS TO EXPAND FACI MEMBERSHIP, NCOIL URGES STATE LEGISLATIVE INVOLVEMENT

Following the January 9 release of a Federal Register notice seeking to expand membership on the Federal Advisory Committee on Insurance (FACI), NCOIL President Rep. Greg Wren (AL) sent a letter to Federal Insurance Office (FIO) Director Michael McRaith advocating for state legislative membership on the expanding FACI.

The letter affirmed that legislators have been at the forefront of successful state insurance policymaking and modernization efforts for over 150 years. Their

experience on the ground in the states will help inform FACI and the FIO of significant insurance matters as they emerge, as well as provide a vital perspective when considering international insurance issues.

According to Rep. Wren, speaking on behalf of NCOIL, "We strongly believe that a state lawmaker, a proven national leader on insurance public policy, would provide diversity sought for FACI membership while showing (cont. on page 3)

## NCOIL MOVES TO SUPPORT LONG-TERM FLOOD INSURANCE REFORMS

Legislators at the NCOIL Spring Meeting in coastal Savannah will weigh impacts of proposed flood insurance reforms, both state and federal, and will move to endorse specific private-market approaches. The March 8 discussion will be the next step in NCOIL's effort to promote a long-term, viable flood insurance market—following NCOIL's overwhelming November 2013 adoption of a resolution championing a temporary, four-year delay of *Biggert-Waters Act* NFIP rate hikes.

Regarding state-level activity, the NCOIL Property-Casualty Insurance Committee will look at pending Florida legislation that aims to usher in a private

flood insurance market. The goal of SB 542—which unanimously passed the Senate Banking & Insurance Committee on January 8 and now works its way through other Senate committees—is to provide a potentially lower-cost alternative to NFIP coverage, regardless of whether *Biggert-Waters* rate increases remain in effect. One consideration during the March 8 NCOIL discussion will be whether SB 542 might serve as the basis for a proposed NCOIL model law.

The P-C Committee also will look at broader, less state-specific private-market strategies that NCOIL—prior to its July Summer Meeting— (cont. on p. 2)

## 2014 NCOIL Committee Leadership

### Financial Services & Investment Products

C: Rep. Tommy Thompson (KY)  
VC: Assem. Paul Aizley (NV)  
Rep. Bob Hackett (OH)

### Health, LTC & Health Retirement Issues

C: Rep. Pete Lund (MI)  
VC: Rep. Greg Cromer (LA)  
Rep. Sarah Copeland Hanzas (VT)

### International Insurance Issues

C: Sen. Dan "Blade" Morrish (LA)  
VC: Rep. Kathie Keenan (VT)  
Sen. Jason Rapert (AR)

### Life Insurance & Financial Planning

C: Sen. Mike Hall (WV)  
VC: Rep. Steve McManus (TN)  
Assem. Kevin Cahill (NY)

### Natural Disaster Insurance Legislation (subcommittee)

C: Rep. Rich Golick (GA)

### NCOIL-NAIC Dialogue

C: Rep. George Keiser (ND)  
VC: Sen. James Seward (NY)

### Property-Casualty Insurance

C: Rep. Matt Lehman (IN)  
VC: Rep. Michael Costello (MA)  
Sen. Larry Taylor (TX)

### State-Federal Relations

C: Rep. Robert Damron (KY)  
VC: Rep. Michael Stinziano (OH)  
Sen. Robert Hayes, Jr. (SC)

### Workers' Comp Insurance

C: Rep. Bill Botzow (VT)  
VC: Rep. Lindsey Holmes (AK)

## NCOIL TASK FORCES

### International Issues Task Force

C: Rep. Greg Wren (AL)  
VC: Sen. Neil Breslin (NY)  
Sen. Travis Holdman (IN)

### Unclaimed Property Task Force

C: Rep. Robert Damron (KY)  
Rep. George Keiser (ND)

## Attorneys General Urge FDA to Reconsider Approval of Pure Hydrocodone, NCOIL Expands Initiative

Troubled by what they believe is a high potential for opioid addiction and overdose, AGs from 28 states and one territory have appealed to the FDA to reverse its controversial approval of a new, pure form of hydrocodone. The FDA decision, which went against the recommendation of an outside advisory council, means that Zohydro ER will hit the markets early this year—

before the manufacturer develops an abuse-resistant version. The AG letter to the FDA is just one state-level effort—in addition to initiatives such as the NCOIL *Best Practices to Address Opioid Abuse, Misuse & Diversion*—that aim to rein in the opioid epidemic.

Zohydro ER is an extended-release drug designed to manage severe pain requiring daily, around-

the-clock, long-term treatment when other options are inadequate. Unlike Vicadin and the other hydrocodone drugs available in the U.S., Zohydro ER does not reduce potency by combining hydrocodone with a weaker pain med, like acetaminophen. Zohydro ER also does not come in a form difficult for people wanting an intense, immediate high to crush and dissolve. (cont. on p. 4)

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## NCOIL Moves to Support...

might urge Congress to explore. Options include, for instance, having NFIP charge risk-based rates while offering targeted subsidies; transitioning NFIP into a reinsurer; and allowing the NFIP to provide coverage only in residual, high-risk markets.

Other approaches could let NFIP purchase private reinsurance—rather than borrow vast sums from the Treasury—and/or allow the program to issue catastrophe bonds to help spread its risk.

*The Biggert-Waters Flood Insurance Reform Act of 2012* phased out controversial subsidies for "grandfathered" properties built before FEMA flood maps, among other structures, and required homeowners in remapped flood zones to pay higher rates if the maps showed greater flood risk.

The NCOIL resolution adopted in November supported bipartisan legislation—the *Homeowners Flood Insurance Affordability Act*—that would postpone the higher rates

until FEMA completes a study, mandated by *Biggert-Waters*, on flood insurance availability and affordability. NCOIL legislators asserted that suspending the new rates was a critical—albeit short-term—solution to help property owners facing higher premiums.

Though the *Affordability Act*, combined with separate legislation regarding agent licensing, passed the Senate by 67-32 on January 30, the bill reportedly faces an uphill climb in the House.



## NCOIL SPRING MEETING

**Come to Savannah, GA**  
as NCOIL shines light  
on critical insurance issues!

**Register at [www.ncoil.org](http://www.ncoil.org)**  
for low rates,  
space in room block!

**March 7 to 9, 2014**

## NCOIL to Hold Critical Debate on Pension De-Risking

A point-counterpoint debate on a controversial proposed NCOIL *Pension De-Risking Model Act* will be held during the NCOIL Spring Meeting in Savannah, Georgia on March 9. The debate is the next step in deliberations over the model act and is part of an ongoing NCOIL effort to explore issues related to pensions and consumer protections.

The proposed *Pension De-Risking Model Act*, introduced for discussion purposes by Rep. George Keiser (ND) at the 2013 NCOIL Annual Meeting, proposes to provide protections to retirees whose pensions are

transferred from a defined benefits plan to a group annuity contract. According to Rep. Keiser, "Pension shortfalls are prompting many private companies with pension plans to evaluate de-risking transactions. NCOIL debate over the model law seeks to examine the perceived issues with pension de-risking and determine what, if any, action is needed to ensure retirees are adequately protected."

Proponents of the model law argue that retirees who are subject to pension de-risking are not provided protections under state law that are reasonably equiva-

lent to those provided under the Employee Retirement Income Security Act (ERISA) and that transactions are not subject to adequate disclosures. Conversely, those opposed to the model argue that state solvency and consumer protection laws equal, if not surpass, ERISA protections and further say that the model law, as is, may be subject to federal preemption.

The debate will see the Association of BellTel Retirees argue that the model is necessary to protect retirees, and a life insurer representative argue that current state laws are adequate.

## NCOIL to Tackle Increased Longevity Impact on Insurance

Prompted by growing concerns over longevity risk, NCOIL will host a special session in conjunction with its March 7 to 9 Spring Meeting, entitled *Longevity & Insurance: What Happens When People Live Longer?* Legislators will take a broad look at the impact of increased life spans on the insurance industry

and investigate ways that states can help consumers.

As individuals live longer, their need for healthcare, long-term care, and income in retirement grows, increasing costs for consumers and insurers. NCOIL will examine proposed solutions to these issues, including hybrid

long-term care/life insurance products, retirement planning through annuities, and cost-saving programs in Medicare and Medicaid. Legislators also will hear what state regulators are doing to address longevity and how different parties can work together in the future.

The session will be held on March 7 in Savannah. NCOIL took an initial look at longevity risk at its 2012 Annual Meeting.

The panel is expected to feature Nancy Bennett of American Academy of Actuaries, Jason Berkowitz of Insured Retirement Institute, Ryan Wilson of AARP, and NAIC and AHIP representatives.

## NCOIL to Take Close Look... *(cont. from p. 1)*

benefits, pre-existing condition coverage, and bans on gender-based pricing. Legislators will seek to better understand how underwriting changes affect premiums.

Much was made of 2014 premiums, but the true impact of underwriting changes may be seen

as insurers prepare for 2015. Do sicker patients in the risk pool mean greater costs for all? Or will more consumers spread the risk and mean lower premiums?

This session takes place on Saturday, March 8, during the NCOIL Spring Meeting.

## NCOIL Committee Leadership...

### Articles of Organization & Bylaws Revision

C: Sen. Jerry Klein (ND)  
VC: Rep. Brian Kennedy (RI)

### Budget/Audit

C: Sen. Neil Breslin (NY)  
VC: Rep. Don Flanders (NH)

### Business Planning

C: Sen. Travis Holdman (IN)  
VC: Rep. Robert Damron (KY)

### Membership

C: Rep. George Keiser (ND)  
Rep. Brian Kennedy (RI)  
VC: Sen. Travis Holdman (IN)  
Rep. Steve Riggs (KY)

### Legislators' Roundtable

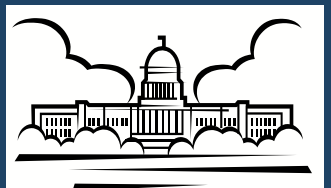
Mod.: Rep. Brian Kennedy (RI)

## FIO Seeks to Expand FACI...

*(cont. from p. 1)*

lawmakers—at the state and federal level—that policymaker input is important to the FIO mission."

FACI was established within the Department of Treasury in 2011 to offer advice, recommendations, and information to the FIO on important insurance issues. In July 2013, Treasury reauthorized FACI for a second two-year term, at which time the Department expanded membership from 15 to 21.





## NCOILetter

Susan F. Nolan, Publisher/Editor  
Candace Thorson, Managing Editor  
Eric Ewing, Associate Editor  
Jennifer Webb, Associate Editor

Simone Smith, Operations Coord.  
Fran LoBasso, Fin. Coordinator

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## ATTORNEYS GENERAL URGE FDA...

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After noting that Zohydro ER is reportedly five to ten times more potent than traditional hydrocodone products, the December 10 AG letter to the FDA said that “State Attorneys General do not want a repeat of the recent past when potent prescription drugs entered the market without abuse-deterrent qualities and without clear guidance on how they were to be prescribed.”

“This [situation] created an environment,” AGs said, “whereby our nation witnessed a vicious cycle of over-zealous pharmaceutical sales, doctors over-prescribing the narcotics, and patients tampering with these drugs, ultimately resulting in a nationwide prescription drug epidemic claiming thousands of lives.”

Should the FDA stand by approval of Zehydro, the AGs wrote, the agency should set a “rigorous timeline” for the drug maker to create an abuse-

deterrent version. FDA should work with other federal agencies during that period to restrict how Zyhydro ER is marketed and prescribed, AGs said.

Though the FDA is not required to accept the advice of outside advisory panels, and sometimes rejects it, the decision to green-light Zyhydro ER directly conflicted with an 11 to 2 advisory council vote in Dec. 2012. At the time, the outside experts were concerned that the potential for abuse was too great to justify bringing the drug to market.

At the NCOIL Spring Meeting, legislators will extend their own initiative on opioid abuse—deciding on next steps for items in expanded NCOIL *Best Practices to Address Opioid Abuse, Misuse & Diversion*. The *Best Practices* now hone in on prescription drug monitoring programs, doctor prescribing, education/outreach, and treatment and prevention.