

NCOIL to Hear Pros, Cons of Principle-Based Reserving

Continuing years of debate at NCOIL and the National Association of Insurance Commissioners (NAIC), a July 11 meeting of the NCOIL Life Insurance & Financial Planning Committee will feature presentations from Nancy Bennett of the American Academy of Actuaries (AAA) and Robert Easton of the New York State Department of Financial Services (DFS) on critical issues related to principle-based reserving (PBR).

Ms. Bennett's presentation will address what some believe are "top myths" surrounding the PBR debate, while Mr. Easton will highlight DFS concerns expressed over the last few years.

DFS Superintendent Benjamin Lawsky announced in late 2013 that New York would not participate in a PBR regime on the grounds that *(cont., page 2 sidebar)*



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NCOIL SUMMER MEETING
July 10 to 13
Boston, MA



NCOIL INTERNATIONAL ISSUES TASK FORCE SETS TIMELINE, STRATEGY FOR IDENTIFYING TOP CONCERNS

In its next step to promote and protect state regulation in light of international dialogues, the NCOIL International Issues Task Force has called on interested parties to submit their "top three" suggestions for Task Force action in 2014. The May 13 request, made by NCOIL President and Task Force Chair Sen. Neil Breslin (NY), included an aggressive timeline for work prior to and during the NCOIL Summer Meeting in Boston—including creation of issue-specific working groups.

According to Sen. Breslin, "Momentum is building quickly at the federal and global levels to develop standards that, while well-intentioned, may not appreciate how well state regulation works—particularly considering how challenged certain federal and global regulations were during the recent financial crisis."

"The NCOIL Task Force, partnering with its State Officials Working Group and its Advisory Council," Sen. Breslin commented, "has *(cont. on page 3)*

NCOIL TO CONSIDER EXPANDED OPIOID BEST PRACTICES PROPOSAL, INTERESTED-PARTY SUGGESTIONS

In their next move to enhance the NCOIL *Best Practices to Address Opioid Abuse, Misuse & Diversion*, NCOIL legislators will soon release a proposed expanded version of the document for consideration at a special July 10 Summer Meeting session. The new language, which responds to interested-party comments submitted in mid-May at the request of NCOIL, would add provisions related to privacy and prescription drug monitoring programs (PDMPs), neonatal abstinence syndrome (NAS), and drug take-back and safe disposal initiatives.

"The three issues we've chosen to focus on now are some of the most critical areas in which *Best Practices* guidelines may be of use today and are a natural extension of the recommendations we've already offered," said Rep. Bill Botzow (VT), chair of the NCOIL Workers' Compensation Insurance Committee and a leader of the NCOIL *Best Practices* effort. He noted that the guidelines, in their current form, already address a number of PDMP issues not related to privacy, acknowledge that NAS is an emerging concern, and recognize items regarding drug *(cont. on page 2)*

NCOIL to Hear...

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companies would be given too much authority to set their own reserves. In March, DFS announced that it would reduce reserving requirements on some products, but will determine new requirements using a **formulaic approach**.

Proponents of PBR argue that the system, which aims to replace the existing formulaic method, will **“right-size” reserves** that some regulators and insurers see as excessive.

PBR must be adopted in 42 of 55 jurisdictions, representing 75 percent of total U.S. premium volume in order to take effect. With its recent adoption by Florida in early May, PBR has now been adopted in 15 jurisdictions representing over 21 percent of total premium. Legislation remains pending in nine other states.

Task Force Takes Important Step

On July 10 at the NCOIL Summer Meeting, the **Unclaimed Property** Task Force will discuss draft amendments to an NCOIL *Model Unclaimed Life Insurance Benefits Act* submitted after the Spring Meeting. **Amendments** cover a range of key issues, including retroactive v. prospective application, frequency/nature of Death Master File matches, and commissioner discretion.

NCOIL to Consider Expanded...

take-back efforts.

“We view the *Best Practices*,” Rep. Botzow said, “as an evolving way to highlight what reform options work and what may not, so that states have timely guidance on things that may be coming to the forefront of their discussions. Our efforts to expand the *Best Practices* should make them an even more useful tool.”

NCOIL will distribute a markup showing proposed amendments approximately 30 days before the July 10 to 13 NCOIL Summer Meeting in Boston, as well as make the draft available at www.ncoil.org. The special

session on July 10 is being held jointly by the Workers’ Compensation Insurance and Health, LTC & Health Retirement Issues Committees.

Groups that submitted proposed amendments in May included the American Academy of Pedi-

(cont. from page 1)

atrics (AAP), American Congress of Obstetricians and Gynecologists (ACOG), American Medical Association (AMA), Massachusetts Society of Addiction Medicine, National Association of Model State Drug Laws (NAMSDL), and Sherry L. Green & Associates, LLC.

NCOIL OPIOID BEST PRACTICES: IN BRIEF

In general, the 2013 *Best Practices* look at how to establish, evaluate, and fund prescription drug monitoring programs (PDMPs) that require real-time reporting, as well as how to create strong evidence-based prescribing standards that recognize “one-size-does-not-fit-all” and that crack down on unlawful “pill mill” pain clinics.

The guidelines also explore ways to promote improved, effective education of physicians and the public and to encourage treatment and prevention, including use of drug courts and drug treatments.

RAND Study Warns of Workers Comp Impacts without TRIA

As Congress wrangles over whether to extend the Terrorism Risk Insurance Act (TRIA), the RAND Corporation has issued a clear warning: no TRIA could mean big trouble for workers’ compensation. The study’s findings, released in May, fall in line with NCOIL’s long-held assertion that a federal terrorism insurance backstop is critical to well-functioning U.S. markets.

According to the authors of the study, entitled *The Impact on Workers’ Compensation Insurance Markets of Allowing the Terrorism Risk Insurance Act to*

Expire, there would be larger consequences for workers’ compensation insurance than for other property-casualty lines if TRIA sunsets—and potential workers’ comp impacts could be major. “Losses in workers’ compensation could be more than \$10 billion from a large conventional attack (10-ton truck bomb),” the study predicts, “and more than \$300 billion from a nuclear attack.”

The report offers five key findings. First, workers’ comp carriers have less flexibility than other insurers to control their terrorism exposure because

state laws prohibit workers’ compensation exclusions or policy limits related to terrorism risk. Second, workers’ comp insurers may decide not to offer coverage to employers “who present a high geographic concentration of potential losses” if reinsurers are unwilling to pick up much terrorism exposure.

Third, without TRIA, employers considered to be high-risk for terrorism could be forced into residual workers’ compensation markets, where prices would be higher. Fourth, those higher costs could translate into lower wages and (cont. on page 4)

NCOIL to Examine Issues in Emerging Telemedicine Field

As policymakers and physicians continue to assess the potential of telemedicine, legislators at the upcoming NCOIL Summer Meeting in Boston will take a close look at emerging cost and other trends. On Saturday, July 12, Jonathan Linkous, CEO of the American Telemedicine Association (ATA), will discuss developments in the states during a Health, Long-Term Care & Health Retirement Issues Committee meeting.

Telemedicine involves delivery of clinical services through electronic means and can include video conferencing, web portals, and nursing call centers,

among other applications. New technologies continue to draw interest in many states grappling with rising healthcare costs and increasingly strained physician workforces.

Among the most fundamental issues among states is lack of coverage in private insurance markets and Medicaid for such electronic treatment. As of 2014, 20 states had adopted mandates for coverage of telemedicine in some form. ATA reports that another 13 states introduced bills in current sessions.

States are also looking at telemedicine as a way to increase

access to care among underserved populations. On May 13, Tennessee announced a joint program with the White House Rural Council to expand telemedicine technology in ten of the state's poorest counties.

The July 12 discussion continues NCOIL's commitment to exploring healthcare cost reduction and quality improvements, among them, new models of care under the Affordable Care Act (ACA). Telemedicine is a core feature of those models, which include Accountable Care Organizations (ACOs) and Patient-Centered Medical Homes (PCMHs).

Legislators to Consider Need for More Pension Safeguards, Model

On July 12, legislators at the NCOIL Summer Meeting will consider whether some retirees may need greater benefit protections and whether NCOIL model legislation is called for to fill perceived regulatory gaps. The controversial draft *Pension De-Risking Model Act*, being debated by the Financial Services & Investment Products Committee, responds to what some say is an imbalance between certain state-based safeguards and Employee Retirement Income Security Act (ERISA) protections.

De-risking occurs when a private company transfers its defined-benefit pension liabilities

by, among other options, purchasing a group annuities contract. Pension benefits are protected under ERISA rules, while annuity benefits fall under the purview of state insurance and solvency regulation.

The draft model would pertain specifically to annuity-related de-risking and would require state regulators to approve such transfers. The proposal would require disclosures to retirees, equal creditor protections, a chance for retirees to opt out of a de-risking transaction, use of reinsurance or a third-party guarantee, and approval of subsequent transfers.

Advocates say variations in state law may be problematic for retirees whose pensions were transferred to an annuity contract and that state law, unlike ERISA, raises concerns over benefits' protection from bankruptcy/creditor claims. Opponents say state rules are at least as good as ERISA and that the draft model could be subject to federal preemption.

Parties speaking before NCOIL have included Edward Stone, supporting the draft on behalf of the Association of BellTel Retirees, and Dylan Tyson, opposing the draft on behalf of Prudential Retirement.

NCOIL International Issues Task Force... (cont. from page 1)

great potential to influence what's happening—but we cannot wait to act. We need to move expeditiously, beginning with identifying and developing game plans for our highest priority issues."

The **interested-party recommendations**, due by May 30, will be culled from a larger list considered at the March Spring Meeting and should include proposed best approaches for tackling each issue. Task Force members on a June call will decide what top priorities to pursue—based on urgency—and will form a working group for each one.

Each working group then will develop a **targeted strategy**—



for review at a July 10 Task Force meeting—for taking on its issue. Strategy materials could be used to develop a **legislative "toolkit"** for lawmakers advocating for state oversight.

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STUDY WARNS...(cont. from p. 2)

slower economic growth—even without a terrorist event.

Finally, the report cautions that TRIA expiration and residual-market growth could mean businesses and taxpayers in the state in which the attack occurs would largely foot the bill for catastrophic workers' comp losses. This, the report says, would make rebuilding tougher.

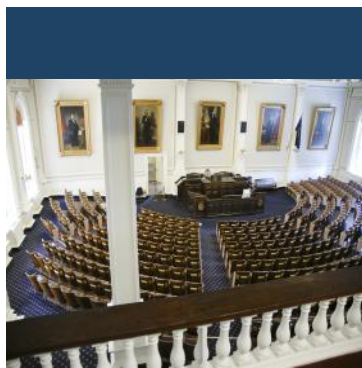
NCOIL has asserted since 2001 that potential terrorism losses could be too large for private insurers to bear—and that U.S. businesses could be severely harmed by an inability to protect against such loss. The NCOIL State-Federal Relations Committee at its July 10 Boston meeting will explore pros/cons of reauthorization efforts—and consider how states might factor in.

SET SAIL FOR THE NCOIL SUMMER MEETING!

July 10 to 13, 2014

Boston Park Plaza

Register at today at www.ncoil.org
for low registration rates,
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