

NCOIL to Move on Certificate of Insurance Model, Entertain Companion Bill

NCOIL legislators at this month's Annual Meeting in Santa Fe may bring a deeply controversial *Certificates of Insurance Model Act* one step closer to final action. The Property-Casualty Insurance Committee, as part of its debate, will consider whether to pursue a companion bill, based on New York State binder law, that may quiet lending-industry opposition. The possible companion approach responds to concerns that the proposed model—which establishes certificates as “information only”—may be an ineffective way to address lender needs for official “evidence” of insurance. The model law will be debated on November 18 and 20.

The draft model was offered as a way to stem fraud and abuse when *(cont. on page 2)*



inside this issue

NCOIL Examining Essential Health Benefit Guidance **P.2**

Obama Administration Says No CLASS...For Now **P.3**

NCOIL to Explore WC Doctor Dispensing, Volunteer Firefighter Coverage **P.3**

NCOIL ANNUAL MEETING
Santa Fe, NM
November 17 — 20



NEW FEDERAL ADVISORY COMMITTEE MISSING VITAL COMPONENT, NCOIL ASSERTS

On November 4, NCOIL leaders expressed palpable frustration that the makeup of the Federal Advisory Committee on Insurance (FACI), announced by the U.S. Treasury Department this month, is missing a key perspective—that of a state lawmaker.

Rep. George Keiser (ND), NCOIL president, said after announcement of the 15-member advisory group, “I am disappointed in the FACI selection process. The committee is overrepresented by regulators at the expense of legislators.”

“As legislators have the last word on insurance public

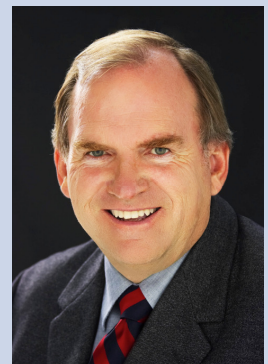
policy, it seems odd that Treasury and the head of the Federal Insurance Office (FIO) have neglected to include the vital presence of state legislators on FACI,” asserted Rep. Bob Damron (KY), immediate past president of NCOIL.

“The fact that those determining membership,” noted NCOIL Past Pres. Rep. Brian Kennedy (RI), “have overlooked a leader of a key insurance legislative organization—an 18-year state legislative veteran and a long-term state insurance committee chair—is baffling... no insurance legislation would ever be *(cont. on page 4)*

UNCLAIMED PROPERTY MODEL MAIN EVENT AT NCOIL ANNUAL MEETING

As the NCOIL Annual Meeting fast approaches, supporters and detractors of a proposed *Model Unclaimed Insurance Benefits Act (MULIBA)* are queuing up in what could be termed a highly controversial NCOIL effort. On November 17 in Santa Fe, New Mexico, legislators will work to resolve how life insurers should best implement procedures for timely payment of death benefits and submission of unclaimed life insurance benefits. *(cont. on page 2)*

NCOIL welcomes as its Annual Meeting keynote speaker the **Honorable** Gary King, New Mexico Attorney General.



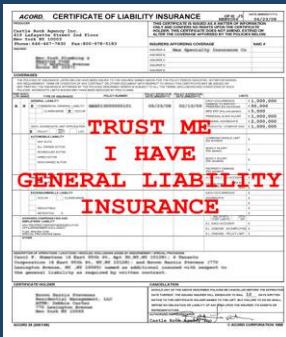
Mr. King will speak to border issues facing states. The Friday, November 18, luncheon is slated for 12:00 p.m. to 1:15 p.m.

NCOIL...

(cont. from page 1)

insurance agents prepare certificates that **verify insurance coverage** to third parties. An array of stakeholders have submitted amendments to the draft model, including a revision to carve out commercial lending transactions. The amendments have yet to be debated. Time allowing, they will be examined during a 7:00 to 8:00 a.m. session on November 20.

Companion legislation—based specifically on New York State law—would aim to alleviate **binder expiration date** concerns and lender requests for **notice when policies renew**. In New York, binders never expire—rather, they obligate insurers to provide coverage until the policy itself is issued.



The standards for cancelling a binder in New York and cancelling the final policy are identical—there is no lower threshold for binders. Regarding renewal, policies renew automatically, unless the insurer cancels or changes terms. Lenders in New York must **accept binders as evidence of insurance**.

The model was first aired at the NCOIL Summer Meeting and is sponsored by NCOIL President Rep. George Keiser (ND). ■

NCOIL to Examine New Essential Health Benefits Guidance

At the Santa Fe NCOIL Annual Meeting, legislators will take a hard look at a new Institute of Medicine (IOM) report on essential benefits—a linchpin of successful healthcare reform under the Affordable Care Act (ACA). The long-awaited recommendations, which emphasize the cost of an insurance plan, rather than the individual benefits it offers, will be featured at a Health Committee session and at a symposium of key state leaders and experts.

Members of the Health, Long-term Care & Health Retirement Issues Committee on November 18 will identify key elements of the IOM guidance and analyze what happens next and what a final rule could look like. A session entitled *Exchange Funding: Finding the Money, Figur-*

ing the Costs on the following day will bring together NCOIL, the National Governors Association, the National Conference of State Legislatures, a leading expert on exchange funding, and the U.S. Department of Health & Human Services (HHS) to weigh potential costs, among other items.

HHS commissioned the IOM study to help identify must-have benefits for qualified plans, which all insurers must offer and most Americans must buy beginning in 2014. While the report, released on October 6, is only a first step, its cost emphasis is being praised by many insurer and employer groups, while drawing concern

from consumer and patient advocates, who worry that critical medical coverage could be denied.

The report urges HHS to develop an essential benefit package by May 2012 based on the national average premium and the benefits



offered by small employers. HHS will hold “listening sessions” throughout the U.S. to get input on what final recommendations should look like. ■

Unclaimed Property...

In time with ongoing investigations by state insurance regulators and treasurers, as well as subsequent third-party audits, the NCOIL Life Insurance & Financial Planning Committee will review the model, sponsored by Rep. Bob Damron (KY), NCOIL immediate past president. MULIBA provides that insurers use the United States Social Security Administration Death Master file, or commensurate service, to match the name and date of birth of an insured, annuity, or retained asset account holder. It also calls for quarterly reporting of

matches and timely submission of unclaimed life insurance benefits.

Contenders—including life insurance companies and associations, unclaimed property administrators, and consumers—will weigh in on the bill, originally drafted to amend the NCOIL *Beneficiaries' Bill of Rights* on retained asset accounts (RAAs). MULIBA scope also encompasses RAAs—in an effort to right what its sponsor considers many wrongs involved in life insurer's death benefit processes.

The time frame for adoption is highly debatable, as 2012 legislative sessions approach and life insurers urge restraint. At present NCOIL has received comments from the American Council of Life Insurers (ACLI), the Life Insurers Council of LOMA, and Lynden Lyman, in response to a National Association of Unclaimed Property Administrators (NAUPA) comment request. ■

(cont. from page 1)

WWW.NCOIL.ORG

NCOIL Looks into Workers' Comp Doctor Dispensing, Volunteer Firefighter Coverage

Insurance legislators will investigate emerging workers' comp issues when they meet in Santa Fe for the NCOIL Annual Meeting this month and explore physician drug dispensing and coverage for volunteer firefighters. The November 18 Workers' Comp Insurance Committee dialogues may be a first step toward developing guidance to address **cost and consistency** issues.

Legislators will weigh options for reining in workers' comp costs that allegedly result from physician dispensing—in which doctors write prescriptions and **"repackage" drugs** straight from their office to injured workers, rather than via pharmacy or mail. Critics allege that this practice is driving medical and workers' comp costs because the drug **costs are higher** than when sold at pharmacies. Some states, including Florida, are debating a cap on the amount that physicians can charge for repackaged drugs.

NCOIL legislators will also probe coverage rules for **volunteer firefighters**, which vary by state and, some argue, are outdated and in need of review. Among issues at play are **how to calculate premiums**, how to decide who picks up the tab for the coverage, (cont. on page 4)



Obama Administration Says No CLASS...For Now

The Obama administration recently announced that it would halt—but not support repealing—the controversial Community Living Assistance Supports and Services (CLASS) program. The announcements came two months after NCOIL leaders expressed “grave concerns” with the Affordable Care Act (ACA) long-term care program.

In an October 14 letter to congressional leaders, Health and Human Services (HHS) Secretary Kathleen Sebelius—in line with NCOIL conclusions—wrote that, “Despite our best analytical efforts, I do not see a viable path forward for CLASS implementation at this time.”

NCOIL leaders had opined to HHS in August that CLASS “fails to apply the principles of risk management that are essential to any financially sound insurance program.”

The HHS announcement was not entirely surprising after Bob Yee, an HHS-hired actuary designing CLASS, acknowledged in September that his office was closing. It did, however, spark Republican talk of repealing CLASS and an October 26 House Energy & Commerce Subc. hearing to investigate the program.

The announcement and backlash prompted the White House to clarify the President's position against repealing CLASS and in support of “working together to address the

long-term care challenges we face in this country.”

CLASS is a voluntary, employment-based program that would provide modest cash benefits to cover LTC needs. Workers would pay monthly premiums to be eligible for benefits after a five-year start-up period. Before opening the program, the ACA required the Administration to certify financial solvency over 75 years.

According to many observers, the fate of CLASS is uncertain. While it may not survive as drafted and could be repealed outright, many believe that more needs to be done to address the nation's LTC needs—particularly with an aging baby boom population. ■

NCOIL ANNUAL MEETING



Check out WWW.NCOIL.ORG for the latest on what happens, when, and why!

Santa Fe, New Mexico
November 17 – 20



NCOILetter

Susan F. Nolan, Publisher/Editor
Candace Thorson, Managing Editor
Mike Humphreys, Assoc. Editor
Jordan Estey, Associate Editor
Simone Smith, Production Assis.
Laurie Dingmon, Bus. Manager

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

NEW...

adopted without state legislators....”

Incoming NCOIL President Senator Carroll Leavell (NM) went on to say, “I question the rationale of those who have chosen to ignore legislative experience in a group supposed to reflect national insurance expertise. This again raises concerns voiced by legislators that FIO may be subject to mission

NCOIL...

whether volunteers should be considered full or part-time workers—as well as whether to exclude firefighters from state workers’ comp rules entirely. An estimated 71 percent of U.S. firefighters are volunteers.

The NCOIL Committee, which will meet from 1:30 to 2:30 p.m. on Friday, will also continue its review of cross-border rules for workers, which are inconsistent throughout the states and can pose headaches for regulators, insurers, businesses, and employers. ■

(cont. from page 1)

creep and could suggest a yet greater and unwarranted federal involvement in insurance.”

The Treasury Dept. announced creation of FACI, which will advise the FIO, in May. Members serve two-year terms and are expected to meet regularly. The group includes seven insurance regulators, six industry reps, a consumer advocate, and an academic. ■

(cont. from page 3)

