

NCOIL Takes on Opioid Abuse Concerns, Moves Toward Reform

Lawmakers at the NCOIL Spring Meeting, spurred to action by the escalating impacts of opioid abuse, will hold a special March 8 working session to pursue tangible reforms on opioid use and abuse for 2013 NCOIL adoption. The Washington, DC, session follows a November NCOIL forum that proffered an array of state approaches—including tough prescription monitoring programs (PMPs).

The upcoming event will be held jointly by the Workers' Compensation Insurance and Health, LTC & Health Retirement Issues Committees, in recognition that opioid abuse affects both lines of insurance.

Currently up for discussion as a basis for NCOIL language is Kentucky's April 2012 PMP reform. The overhaul—part of a law that took a multi-pronged run at opioid abuse—expanded the Kentucky All (cont. on page 3)



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NCOIL SPRING MEETING
Washington, DC
March 8 – 10



NCOIL MEETING TO HONE IN ON FEDERAL INITIATIVES, STATE RESPONSES

NCOIL will take advantage of its March 2013 Spring Meeting at the Hyatt Regency on Capitol Hill in Washington, D.C. to look at the relationship between state insurance regulation and the many and varied federal initiatives to have emerged in the 112th Congressional session.

NCOIL sessions on Friday, March 8, will offer forums for legislators and key officials to review and discuss a much anticipated Federal Insurance Office (FIO) report to Congress. The 2010 Dodd-Frank Act required the FIO to conduct a study and to present a report to Congress on how to modernize and improve the system of insurance regulation

in the United States. Legislators are eager to see Director Michael McRaith's conclusions—which could address items such as market conduct, international relations, and barriers for low-income and other consumers—and to discuss, understand, and weigh in on his recommendations.

Observers generally agree that the FIO finished the first drafts of the report some time ago. However, conversations between the FIO and other parts of Treasury and the Administration have reportedly delayed the study's release. Now that the Presidential election is over, and repeal of Dodd-Frank is unlikely, there is widespread (cont. on page 2)

NCOIL TO WEIGH PROS/CONS OF CONSUMER LEGAL FUNDING, DEBATE THREE CONTROVERSIAL MODELS

On March 9, NCOIL legislators will take an in-depth look at vastly different proposals to regulate third-party consumer legal lending. The Property-Casualty Insurance Committee effort, which began in February, will spotlight concerns over whether such financing helps consumers to access the legal system, or whether the funding simply means big third-party fees with little consumer benefit. Legislators will look at three proposed NCOIL models relating to the issue during the March 8 to 10 NCOIL Spring Meeting in Washington, DC.

Two proposals, a *Consumer Legal Funding Model Act* and a *Civil Justice Funding Model Act*, take broad regulatory approaches that allow use of legal funding, subject to certain restrictions. The drafts would mandate various disclosures; ban referral fees; set guidelines for distributing proceeds; and mandate certain attorney requirements, including acknowledgment of the financing arrangement.

Key differences relate to, among other things, whether to establish a timeframe (cont. on page 4)

NCOIL Committee Leadership in 2013

Financial Services & Investment Products

C: Rep. Tommy Thompson (KY)
VC: Sen. Kevin Bacon (OH)

Health, LTC & Health Retirement Issues

C: Sen. Jake Corman (PA)
VC: Rep. Susan Westrom (KY)

International Insurance Issues

C: Sen. Carroll Leavell (NM)
VC: Rep. Craig Eiland (TX)
Rep. Kathie Keenan (VT)

Life Insurance & Financial Planning

C: Sen. Mike Hall (WV)
VC: Rep. Marguerite Quinn (PA)

Natural Disaster Insurance Legislation (subcommittee)

C: Sen. Dan Morrish (LA)
VC: Rep. Rich Golick (GA)



NCOIL-NAIC Dialogue

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

Property-Casualty Insurance

C: Rep. Matt Lehman (IN)
VC: Sen. Dan Morrish (LA)
Rep. Larry Taylor (TX)

State-Federal Relations

C: Rep. Robert Damron (KY)
VC: Rep. Brian Kennedy (RI)

Workers' Comp Insurance

C: Rep. Bill Botzow (VT)
VC: Sen. David O-Connell (ND)
Rep. Michael Stinziano (OH)

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NCOIL to Consider NAIC's Controversial Principles-Based Reserving Proposal for Life Industry

Legislators will meet on Friday, March 8, at the 2013 NCOIL Spring Meeting in Washington, DC to again consider a controversial NAIC principles-based reserving (PBR) decision and what it means for state lawmakers.

The most sweeping change in a generation to the solvency regulation of the life insurance industry will likely hit the desks of legislators in upcoming sessions. In response to the concerns of skeptical regulators, the NAIC delayed introducing revisions to a Standard Valuation Law (SVL)—which establishes principles-based reserving—to state legislatures until an accompanying Valuation Manual (VM) was completed. The controversial manual was passed by the NAIC Plenary at its November meeting

NCOIL Meeting...

in anticipation that the report will be released soon.

Other Spring Meeting sessions will look at continuing implementation of the Affordable Care Act (ACA). A March 8 *Legislator Q&A with Federal Health Agency Representatives*, for example, will allow legislators to ask common-sense questions of federal officials. The forum is expected to include representatives of the Center for Consumer Information

in Washington, D.C., and defines the specific methods used by regulators and insurers to calculate the insurer reserves.

The SVL together with the VM are intended to “right-size” life insurance reserves to the size and complexity of a company’s specific risks. Supporters say that the changes create an approach more adaptable to new products, such as life-long term care hybrids, than the existing tabular reserving process. Opponents argue that insurer solvency could be at risk and that small departments may not have resources to implement the new company-specific approach.

In addition, the California and New York Departments, which argued against November adop-

tion of the Valuation Manual, have been vocal in opposing what they see as too much flexibility in the VM for companies to manipulate reserves and in calling for more time to investigate PBR cost and other impacts.

The NCOIL discussion also is likely to recognize that the SVL refers to the VM—which will be developed and maintained by the NAIC—for many critical details. Consideration may be given to the impact this could have on state legislator decision-making.

The NCOIL Life Insurance & Financial Planning Committee will discuss PBR issues during its 8:15 a.m. to 9:15 a.m. meeting on March 8. The spring conference will take place at the Hyatt Regency on Capitol Hill. ■

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February, and in Washington NCOIL will look at the health insurance landscape they create.

Other critical areas NCOIL will examine at the Spring Meeting are the imposition of Basel III capital requirements on insurers, which the State-Fed Committee will explore on March 8, and the impact of Superstorm Sandy on the National Flood Insurance Program (NFIP), which the P-C Committee will discuss on March 9. ■

Health Exchange Round-up: States Say “Yes,” States Say “No”

Each state had until December 14 to tell HHS whether the state would run its own healthcare exchange—a controversial mechanism mandated by the 2010 Affordable Care Act (ACA)—or whether it would leave exchange implementation to the feds or agree to a state-federal partnership approach. Below is a round-up of where states stand.*

STATE-RUN EXCHANGE: YES (19)

California, Connecticut, Colorado, DC, Hawaii, Idaho, Kentucky, Maryland, Massachusetts, Minnesota, Mississippi, Nevada, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Washington

STATE-FEDERAL PARTNERSHIP (6)

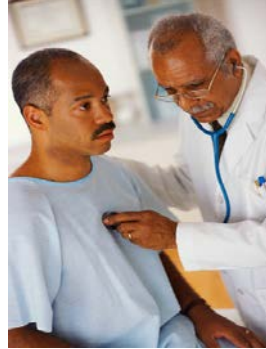
Arkansas, Delaware, Illinois, Iowa, Michigan, North Carolina

UNDECIDED (2) Florida, West Virginia

* Based on National Conference of State Legislatures (NCSL) data, updated on December 20.

STATE-RUN EXCHANGE: NO (24)

Alabama, Alaska, Arizona, Georgia, Indiana, Kansas, Louisiana, Maine, Missouri, Montana, Nebraska, New Hampshire, New Jersey, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wisconsin, Wyoming



NCOIL Takes on...

Schedule Prescription Electronic Reporting (KASPER) system by requiring all prescribers of Oxycontin, Xanax, and similar drugs to register to file with KASPER and run KASPER reports. To accommodate the influx of new participants—an additional 9,100 between April and July, state officials have reported—the law implemented vital system up-

grades and authorized hiring of more staff, among other things.

The NCOIL committees also are likely to discuss a model law/regulation developed recently by the International Association of Industrial Accidents Boards & Commissions (IAIABC). The documents would set clear, comprehensive guidelines for prescribing and

(cont. from page 1)

utilizing opioids and could work in concert with other approaches, like drug monitoring programs.

The March 8 session will take place from 9:30 to 10:30 a.m.

The November Annual Meeting forum highlighted causes, consequences, and trends; laid out various state options; and offered a KY case study perspective. ■

NCOIL Committee Leadership...

Articles of Organization & Bylaws Revision

C: Rep. Ron Crimm (KY)
VC: Sen. Neil Breslin (NY)

Budget/Audit

C: Rep. Greg Wren (AL)
VC: Rep. Don Flanders (NH)

Business Planning

C: Rep. Robert Damron (KY)
VC: Sen. Carroll Leavell (NM)

Membership

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

Legislators' Roundtable

Mod.: Rep. Brian Kennedy (RI)

NCOIL Spring Meeting Highlights

As part of its discussion and debate on dozens of state and federal insurance issues, the NCOIL Spring Meeting in DC will feature the following special sessions:

SPECIAL MEETING ON OPIOID ABUSE & STATE REFORMS

Friday, March 8
9:30 to 10:30 a.m.

SPECIAL SESSION ON THE FEDERAL INSURANCE OFFICE (FIO)


Friday, March 8
1:45 to 3:15 p.m.

LEGISLATOR Q&A WITH FEDERAL HEALTH AGENCY REPS

Saturday, March 9
10:00 to 11:45 a.m.

WORKING SESSION ON INSURANCE BINDER MODEL

Sunday, March 10
8:00 to 9:00 a.m.



SIGN UP TODAY for the NCOIL SPRING MEETING!

Learn what states can do about new federal rules!

March 8 to 10, 2013

Hyatt Regency on Capitol Hill

Register at www.ncoil.org

for low rates, space in hotel room block!



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NCOIL TO WEIGH...

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in which one can assess lending-company fees, whether to require arbitration to settle consumer/lender disputes, and whether multiple funding companies can simultaneously lend to a consumer.

Legal funders have expressed support for both models, particularly the *Civil Justice Funding Model*. Insurer and employer representatives—who criticize consumer funding in general—strongly oppose both drafts.

A third model—the insurer/employer alternative—strikes at one of the most frequent criticisms of consumer funding and would greatly restrict funding-company rates and fees. The *Model Consumer Lawsuit Lending Alignment Bill*, developed by the U.S. Chamber Institute for Legal Reform, would, in part, cap interest rates charged by third-party lenders so that the rates match what the

state allows for consumer credit transactions.

Overall, third-party consumer legal financing, which is a type of non-recourse financing, takes place when a lending company gives money to a plaintiff in return for receiving a portion of any settlement or award. The third-party lender receives nothing—including the amount of the original loan—if the plaintiff loses. Individual consumers often use the funds to pay daily expenses while a lawsuit works its way through the courts.

Participants at NCOIL thus far have been from the American Legal Finance Assoc., Center for Economic Justice, Nat.'l Assoc. of Mutual Insurance Companies, Oasis Legal Finance, and U.S. Chamber Institute for Legal Reform, among others.

The March 9 P-C Committee meeting will take place from 12:45 to 2:00 p.m. ■