

## Spring Meeting Preview: NCOIL to Review Life Insurance Models

Legislators at the NCOIL Spring Meeting will review—as required under NCOIL bylaws, which call for NCOIL review of its model laws every five (5) years—three model acts approved by the Life Insurance & Financial Planning Committee in 2010. The Committee will renew discussion of the *Beneficiaries' Bill of Rights*, the *Life Insurance Consumer Disclosure Model Act*, and the *Long-Term Care Tax Credit Model Act* during the Committee's 8:00 to 9:00 a.m. meeting on Sunday, Feb. 28.

The highly debated *Beneficiaries' Bill of Rights* addresses the insurer practice of holding claims payments



through retained asset accounts (RAAs). The model requires insurers to make extensive written disclosures to consumers (*cont. on p. 3*)



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**NCOIL SPRING MEETING**  
Little Rock, Arkansas  
February 26 - 28



## NCOIL Commits to Investigating Opt-Out Workers' Comp Systems

NCOIL legislators—responding to a recent study that raised concerns regarding workers' compensation systems in which employers are not required to participate, and in recognition of mounting federal interest in intruding on state workers' comp authority—determined at their Annual Meeting to investigate issues related to opt-out/opt-in approaches and to weigh in as needed on calls for federal intervention. The decision by the Workers' Compensation Insurance Committee to examine the issue in 2016 aligns with NCOIL commitment to promoting fair

benefit systems and to protecting state insurance regulatory authority.

According to Sen. Jerry Klein (ND), chair of the Committee, "The issues brought forward by the recent NPR/ProPublica study regarding the Texas and Oklahoma workers' compensation programs are of significant concern to state legislators responsible for the protection of injured workers. Though NCOIL has taken no position on these unique programs, we'd be remiss if we didn't look at the issue further—especially (*cont. on page 2*)

## NCOIL Moves Toward Comprehensive Approach to Network Adequacy

On November 12, NCOIL legislators at their Annual Meeting kicked off consideration of a proposed model law to ensure that patients have ample choice of in-network physicians and to protect consumers from surprise bills when they unknowingly receive treatment from outside an insurer's system. Discussion of the draft *Model Act Regarding Network Adequacy and Use of Out-of-Network Providers* was a first step to developing model legislation based on a well-regarded 2014 New York State law.

sponsors the proposal, said a comprehensive approach was needed to address concerns related to availability of in-network physicians and a potential for burdensome and unexpected bills.

"The proposed NCOIL model," Sen. Seward commented, "is an opportunity for us to protect patients from additional suffering and will be refined prior to the 2016 Spring Meeting to ensure that we take into account the most important elements of the New York law while recognizing that states have different needs and systems."

NCOIL Past Pres. Sen. James Seward (NY), who

(*cont. on page 4*)

## Legislators Take Close Look at “Sharing Economy” Risks, Regulation

Legislators at a packed NCOIL Annual Meeting session explored insurance, regulatory, and social impacts of the fast-growing “sharing” economy, in which hundreds of technology firms compete to help consumers get around town, find a place to stay, hire people to perform daily tasks, and meet an array of other needs. Experts speaking on *The “Sharing” Economy: How Might It Impact Insurance Regulation?* panel in San Antonio on Nov. 14 represented academic, state insurance regulator, and insurance industry perspectives, and laid groundwork for future NCOIL action.

Participating in the session were Chiara Farronato, Assistant Professor of Business Administration in the Technology & Operations Management Unit at Harvard Business School; Louisiana Insurance Commissioner James Donelon, speaking on behalf of the NAIC; and Mark Smith, who serves as Assistant Vice President of National Affairs with Insurance Services Office (ISO).

NCOIL will further its look at “sharing” economy issues in 2016.

## NCOIL Commits to Investigating Opt-Out...

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since there’s movement in other states to let employers opt out of state workers’ compensation requirements.”

“In addition,” Sen. Klein asserted after the Committee’s November 12 decision, “the growing federal interest in getting involved with state authority to oversee how injured employees are paid means that NCOIL must be ready to stand up for state consumer protections and regulations.”

In their October 14 report, NPR and ProPublica allege that opt-out/opt-in workers’ comp systems result in scaled-back benefits and that employers use various techniques to deny coverage, such as narrowly defining what a workplace injury is and imposing tight rules on when an employee must report an injury (e.g., by the end of the shift).

According to the report, opponents—which include plaintiff attorneys, worker advocates, insurers, and medical provid-

ers—also say that these non-traditional workers’ comp programs may deviate from state law by requiring employees to accept all-or-nothing settlements offered by employers.

Supporters of opt-out/opt-in approaches—who often are quick to point out that there are significant differences between the two types of systems—say that non-traditional approaches may bring much-needed savings for employers without compromising benefits. In fact, advocates say, these plans often require an employer to pay a higher percentage of worker wages than standard plans do—while eliminating inefficiencies found in traditional markets.

Though federal intervention is not certain, an October 20 letter from Democratic leaders on key U.S. House and Senate committees dealing with workers’ compensation issues wrote the Department of Labor (DOL) urging the agency to weigh in. The

letter cited the NPR/ProPublica study in its argument that state workers’ comp laws no longer protect injured employees.

Texas has maintained an opt-in system since the state established its workers’ comp program in 1913. Employers who do not provide traditional coverage are called “non-subscribers.” In Oklahoma, a 2013 law lets companies opt-out of buying workers’ comp coverage but requires such companies to meet financial and other standards. Tennessee and South Carolina have been considering opt-out legislation.

The NCOIL Workers’ Comp Committee will next discuss opt-out/opt-in issues and potential federal intervention when the Committee meets on Friday, Feb. 26, from 8:30 to 9:30 a.m. during the NCOIL Spring Meeting.



**REGISTER TODAY FOR THE  
NCOIL SPRING MEETING!**

**February 26 to 28, 2016**

Little Rock Marriott

**Sign up at [www.ncoil.org](http://www.ncoil.org)**  
for low rates, room in host hotel

*\* tentative schedule now online \**

## NCOIL Readopts Insurance Scoring Model, Possible “Big Data” Guidance

Legislators at the NCOIL Annual Meeting re-approved a successful *NCOIL Model Act Regarding Use of Credit Information in Personal Insurance* and determined—in light of marketplace developments since NCOIL first adopted the model in 2002—to consider it as a template for possible 2016 NCOIL guidance regarding insurer use of “big data.” The Property-Casualty Insurance Committee took action on November 15, during the San Antonio NCOIL conference.

Twenty-nine states use the NCOIL insurance scoring model act either in whole or in part. NCOIL adopted the model in Nov. 2002 after more than one year of in-depth discussion and in response to emerging concern

over insurer use of consumer credit history to influence underwriting and/or rating. Since that time and since NCOIL’s last re-adoption of the model in 2009, consumer organizations and other entities have questioned how insurers may be using a consumer’s use of social media, online shopping sites, and other sources of “big data.”

NCOIL reviewed the model as per NCOIL bylaws, which require re-adoption, amendment, or sunset of NCOIL models every 5 years.

The model prohibits an insurer from denying, canceling, or non-renewing a policy based solely on credit info. The model requires an insurer to tell an applicant that credit info will be used and to notify when an adverse

action is related to credit experience—including ID’ing the top four credit factors. Under the model, an insurer must re-underwrite/re-rate when an insured’s credit report is corrected.

Responding to fallout from the 2008 financial crisis, the model requires insurers to give rating/underwriting relief to consumers whose credit suffered from an extraordinary life circumstance (ELC), and it addresses methods and timeframes for requesting and granting ELC exemptions.

The model also (1) indemnifies certain insurance producers, (2) bans a reporting agency from giving/selling data related to an insurance inquiry, and (3) bans an insurer from negatively considering lack of credit history.

ing on a number of circumstances—including the insured’s age and health status and the policy’s terms. The model was based on a 2010 Kentucky law.

The *Long-Term Care Tax Credit Model Act* would allow taxpayers to receive a credit against their state income tax in an amount that equals up to 15 percent of the paid premium costs for qualified long-term care policies during the taxable year. NCOIL adopted the model law in 1998 and later readopted it in 2001, 2003, and 2005.

## Spring Meeting Preview: NCOIL to Review Life Models... (cont. from page 1)

about, among other things, RAA features when payment options other than a lump-sum payment are offered—as well as make disclosures about interest rates, fees, limitations, and delays tied to the account and any FDIC coverage. The model calls on insurers to file all RAA materials/disclosures with insurance regulators before using them and to report annually on RAA details. NCOIL provisions also require insurers to return RAA balances to beneficiaries under certain circumstances.

The controversial *Life Insurance Consumer Disclosure Model Act* requires insurance companies to tell people who are over age 60 or are terminally/chronically ill that they have alternatives to giving up their life insurance policies. As well as listing the options, insurers under the model would advise policy owners to contact their financial advisor, insurance agent, broker, or attorney to obtain advice or assistance. Insurers would have to explain that alternatives may or may not be available depend-

## New NCOIL Officers Take Reins

The NCOIL Executive Committee on November 15 approved the following slate of officers for 2015 to 2016.



**PRESIDENT**  
Sen. Travis  
Holdman, IN



**VICE  
PRESIDENT**  
Rep. Steve  
Riggs, KY



**SECRETARY**  
Sen. Jason  
Rapert, AR

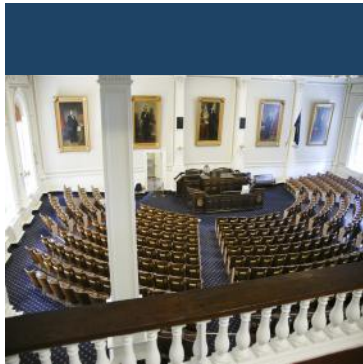


**TREASURER**  
Rep. Bill  
Botzow, VT

### SPECIAL THANKS

to outgoing President **Sen. Neil Breslin** (NY) for his tireless work on behalf of the organization from April 2014 to November 2015.





## NCOILetter

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## NCOIL Moves Toward Comprehensive Approach...

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The proposed model requires insurance department approval of each insurer's provider network and re-approval at least every three years. The draft calls for disclosure of estimated out-of-pocket costs for frequently billed out-of-network healthcare services and allows a consumer to appeal when an insurer denies treatment because the provider is out-of-network.

The New York-based provisions also, among other things, require various contact information and other disclosures related to hospitals, physicians, and specialists that may play a role in the patient's treatment. The draft excludes emergency services.

One aspect of the New York law that currently is not in Sen. Seward's draft are provisions establish-

ing a dispute resolution process when patients disagree on the amount of their balance bills. Though the NCOIL Health, LTC & Health Retirement Issues Committee planned to add the provisions to an existing NCOIL balance billing model act, consumer groups urged NCOIL to reconsider and include them in Sen. Seward's proposal.

Consumer advocates also suggested expanding Sen. Seward's proposal to include specific measures that a regulator would use to determine if a network is adequate.

The Committee will meet during the NCOIL Spring Meeting, when it also resumes looking at draft models related to updating provider directories and telemedicine reimbursement and licensure.