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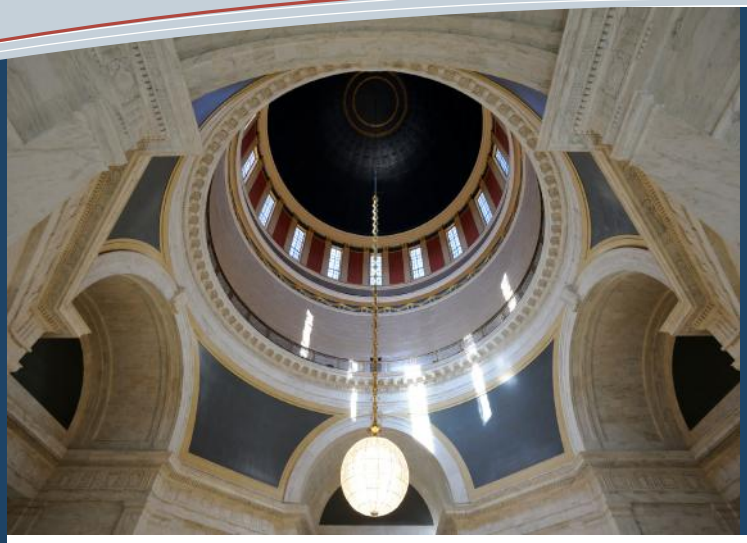
NCOILetter



inside this issue

SPECIAL EDITION ON TNC REGULATION

2015 NCOIL SUMMER MEETING
July 16 to 19, 2015
Indianapolis, IN

States Enact Medical Licensure Compact, NCOIL Exploring Telemedicine Licensure/ Reimbursement

Legislatures in ten (10) states this session enacted an *Interstate Medical Licensure Compact*, developed by the Federation of State Medical Boards (FSMB) with experts at the Council of State Governments (CSG), that makes it easier for physicians to receive multi-state licenses—and so facilitates the use of telemedicine. What telemedicine licensure and reimbursement should look like, and why, will be the focus of a July 18 NCOIL event in which American Medical Association (AMA) and health insurer representatives weigh in.

The *Interstate Medical Licensure Compact* was released in Sept. 2014 and requires adoption in seven states to take effect,

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NCOIL Plans Storm Chaser Model Law to Rein in Fraudulent Roofers

NCOIL legislators on July 18 will move forward with a proposed *Storm Chaser Consumer Protection Act* in an effort to protect consumers by promoting fairness and honesty in the roofing business. Discussion will take place during the Property-Casualty Insurance Committee meeting at the NCOIL summer conference in Indianapolis.

Rep. Rich Golick (GA), who co-sponsors the proposed model with Sen. Jason Rapert (AR), urged lawmakers in a June letter to support the draft. Rep. Golick wrote that roofing contractor fraud "increases overall costs, takes business away from reputable contractors and ultimately drives up insurance costs. As a result, model legislation is needed to help protect consumers, the reputable roofing contractor industry and the insurance market from these unprincipled individuals."

The proposed model is supported by the National Roofing Contractors Association (NCRA). The draft would require a written contract that spells out what the roofer will do, what materials he will use, and how much the consumer will be expected to pay. Contact and other details of the roofer, as well as the insurance he carries, are required—as is, among other things, a clear disclosure saying that the consumer can cancel the contract, within three business days, if the consumer's insurer denies all or part of the claim.

Consumers who cancel contracts because of an insurer denial get their deposits to the roofer returned to them under the draft model—except for emergency repairs. Roofers would receive the fair value of emergency work.

The draft, which has been revised slightly from a Spring Meeting version, offers a long list of roofer prohibitions; sets out licensing and registration rules; and requires a roofing contractor to maintain certain insurance coverages.

The proposed model includes some exemptions, though—such as farm and residential property owners doing work on their own premises, public-sector employees repairing a government building, and anyone who furnishes a material or product, such as roofing shingles, who does not install that product on the property. ■

On the Record: Perspectives on Regulating Transportation Network Companies (TNCs)

As state and local officials in the U.S. and abroad debate how to regulate controversial transportation network companies (TNCs) like Uber and Lyft, NCOIL is moving forward with a proposal establishing "rules of the road" for the TNC industry. The Property-Casualty Insurance Committee's consideration of the draft model law, which will take place during the NCOIL Summer Meeting, will begin on Saturday, July 18, and carry over to a Sunday, July 19, session. Below are commentaries—from key players at NCOIL and throughout the nation—on what TNC oversight should look like.

INSURANCE REGULATOR

TNCs in Best Position to Fill Insurance Coverage Gaps Associated with Their Business

By Comm. Dave Jones, CA

When innovative entrepreneurs brought UberX, Lyft and Sidecar to market, there were significant insurance coverage gaps. Personal auto policies contain livery exclusions.

An UberX driver in California ran over and killed a little girl in Period 1 (app open waiting for a match). UberX denied liability.

California required TNCs to have $1 million coverage in Periods 2 (match accepted) and 3 (passenger in car). TNCs lobbied successfully to limit their coverage obligation to just $300,000 in Period 1. In other states TNCs have lobbied successfully to shift the burden to drivers to get insurance in Period 1 and lower coverage levels.

New technology and new business models bring new services, competition, potentially lower prices and convenience – all good things. But they also bring new risks.

Uber's market valuation is $40 Billion. Lyft is $2.5 billion. They brought this business to market. Shouldn't they provide insurance coverage?

TNCs should provide $1 million in coverage in all 3 periods. Not just 2. Policymakers will face tough questions when the next TNC accident victim receives an inadequate insurance payout, while TNC investors reap returns.

Many drivers take loans to buy or lease cars. Will lenders be satisfied with patchwork insurance to protect their collateral?

Taxis and limos have commercial insurance with one limit 24/7/365. If TNCs are allowed to have lower limits during Period 1, is it fair to taxis, limos and delivery services?

For more information about TNC insurance issues, read the NAIC white paper "Transportation Network Company Insurance Principles for Legislators and Regulators".

Dave Jones is CA Insurance Commissioner and Chairperson of the NAIC Sharing Economy WG.

PROPERTY-CASUALTY INSURER

TNC Compromise: A Clear Path to Protect Consumers and Support Innovation

By Robert C. Passmore, CPCU

Over the course of the last two NCOIL meetings you have heard a great deal from insurers and Transportation Network Companies (TNC's) about what kind of insurance rules are needed in the states to support innovation in both industries while protecting passengers, drivers and insurance consumers. While there were a number of areas where insurers and TNCs agreed, there were significant differences of opinion, and those were given a thorough airing at NCOIL proceedings.

2015 was shaping up to be another year of costly and contentious legislative battles, only on a much broader scale than in 2014. With that scenario ready to play out, insurers and TNCs took a step back to explore another path. It soon became apparent that there were more areas of consensus than conflict and another attempt at reconciliation yielded an agreement on what is now known as the TNC Compromise Model.

The TNC Compromise model will look very familiar to all and we believe that it provides reasonable and workable requirements for TNCs and their drivers and provides insurers with the ability to make sound underwriting and pricing decisions. We believe it will also create an environment where TNC services will thrive and also facilitate development of a robust insurance market for this new business model.

As of today, 16 states have passed legislation most of which came after the compromise

agreement. As the clear path to support innovation and protect consumers is before us, we urge you to support the TNC Compromise Model.

Robert Passmore is Assistant Vice Pres., Personal Lines Policy with the Property Casualty Insurers Association of America (PCI).

TAXI & LIMOUSINE INDUSTRY

Hybrid TNC Insurance Must Include Taxis and Limos

By Greg Serio

The emergence of transportation network companies (TNCs) may forever change local for-hire passenger transportation services, as we know them. Certainly, the laws and regulations governing for-hire livery are undergoing fundamental changes. These changes are having a profound impact on driver and passenger protections and traditional operator competitiveness.

In no area are these consequences more apparent than insurance. TNC drivers now have access to hybrid policies, while traditional operators must still purchase full primary commercial automobile liability insurance coverage. These commercial policies offer stronger consumer protections yet cost significantly more, putting traditional operators at a considerable competitive disadvantage.

The traditional for-hire livery industry has welcomed the innovation that has come with the TNCs, but remains deeply concerned about core legal protections that new TNC laws have eliminated or ignored. Livery laws are being watered down, putting the public at risk in the process. Changes in driver screening standards, vehicle safety inspections, and customer privacy protections are just a few of the additional casualties of TNCs determination to lower the bar when it comes to public safety.

These issues require close study by lawmakers, regulators and others responsible for overseeing the for-hire livery industry, including both traditional and TNC operators and drivers alike. It is imperative that all for-hire livery operations, whether a traditional operator or part of the TNC model, follow the same set of safety rules and insurance standards, whatever those may be. One standard for all is the best and only path to protecting the public.

Greg Serio is Managing Director of Park Strategies LLC. He writes on behalf of the Taxi, Limousine & Paratransit Association (TLPA).

TRANSPORTATION NETWORK COMPANY (TNC)

TNC Insurance: The Compromise Approach

By Gus Fuldner

Earlier this year, major auto insurers, insurance trade organizations and leading transportation network companies ("TNCs") agreed to a set of insurance regulatory principals to help guide legislators as they consider TNC regulations. This followed months of debate in state legislatures, study at the NAIC, through its Sharing Economy Workgroup, and a rare instance of private market cooperation. The result is a set of practical solutions that appropriately balance safety and innovation.

The organizations that have joined this compromise represent ~99% of TNC activity nationwide and over 90% of the personal auto insurance marketplace, including State Farm, Allstate, Farmers, USAA, AIA, NAMIC, PCI, Uber, Lyft, and Sidecar. It has become the basis for legislation adopted in ~20 states and under consideration in several more.

The key issues the compromise resolves are as follows:

- Supports innovation and enhances consumer choice in insurance products while ensuring insurer underwriting flexibility;
- Sets coverage limits for TNC vehicles based on existing state financial responsibility laws for personal auto and limos;
- Addresses consumer confusion through disclosures;
- Ensures cooperation between TNCs and insurers in claims investigations

We encourage NCOIL and states considering TNC legislation to adopt this compromise as it provides an effective and uniform standards and definitions that enable further insurance product development, improves transportation options, and ensures the protection of riders, driver and the public at large. Issues beyond insurance, including driver background checks, TNC licensing and the interests of auto lenders have also been successfully addressed legislatively in many states in alongside this model.

Gus Fuldner is Director of Insurance and Risk Management at Uber.

VISIT WWW.NCOIL.ORG FOR DRAFT TNC MODEL

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States Enact Medical Licensure Compact…

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a threshold that the Compact has surpassed. According to FSMB (http://www.licenseportability.org), Alabama, Idaho, Iowa, Minnesota, Montana, Nevada, South Dakota, Utah, West Virginia, and Wyoming are members. Nine other states—Illinois, Maryland, Michigan, Nebraska, Oklahoma, Rhode Island, Texas, Vermont, and Wisconsin—considered Compact bills in 2015.

The Saturday, July 18, NCOIL special Health, LTC & Health Retirement Issues Committee meeting will extend NCOIL exploration of telemedicine pros, cons, and regulatory concerns. Set in Indianapolis during the NCOIL Summer Meeting, the session will address, among other things, whether telemedicine reimbursements should be on par with reimbursement for in-person treatment and how state lawmakers might ensure that patients are protected. Additional Summer Meeting details are available at www.ncoil.org. ■

SUMMER MEETING KEYNOTE

Thurs., July 16—11:30 a.m. - 1:00 p.m.
Hilton Indianapolis Hotel & Suites
Doug Boles, President
Indianapolis Motor Speedway