



NCOIL Urges Congress to Protect Against Terrorism Risk, Reauthorize Essential TRIA

State legislators again voiced support for extension of the Terrorism Risk Insurance Act (TRIA) in a resolution adopted by the NCOIL Executive Committee on July 14 at the NCOIL Summer Meeting in Philadelphia. The resolution acknowledges the need for an ongoing federal backstop for terrorism risk and urges Congress to act, as without Congressional action TRIA will expire on December 31, 2014.

According to resolution sponsor Rep. Michael Stinziano (OH), "Extension of TRIA is essential for the economic security of the United States. If TRIA expires, commercial consumers might be unable to afford necessary insurance. I hope that Congress will act as soon as possible to extend TRIA and guarantee the widespread availability of terrorism insurance coverage to our citizens."

The resolution asserts that the U.S. is engaged (*cont. p. 2*)

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NCOIL MOVES TO ADOPT BEST PRACTICES AGAINST OPIOID ABUSE, HOLD JOINT SESSION AFTER CONSULTING WITH STAKEHOLDERS

NCOIL legislators gearing up for their November Annual Meeting are asking interested parties for a second round of comments on proposed best practices to combat opioid abuse and diversion. The draft guidelines—which hone in on prescription drug monitoring programs (PDMPs), physician prescribing practices, education and outreach, and treatment and recovery—earned broad interested-party support at the July NCOIL meeting and will be the focus of a joint Committee session in November.

"Our goal over the next few months," said Workers' Compensation Insurance Committee Chair Rep. Bill

Botzow (VT), "is to learn from interested parties how we can enhance what we have now, so we can adopt a final product for the states in November. I don't envision major changes to the current draft. I think what we have is an excellent start."

Chairman Botzow commented that the NCOIL guidelines will take a complex problem and break it into individual pieces with which states can deal. As a result, he noted, "The NCOIL framework can serve as a checklist, of sorts, against which legislators can compare their own state's requirements to identify any gaps in oversight (*cont. on page 2*)

LIST OF GLOBAL SYSTEMICALLY IMPORTANT INSURERS RELEASED, CONCERNS RAISED

In mid-July, the Financial Stability Board (FSB), in consultation with the International Association of Insurance Supervisors (IAIS), identified an initial list of nine global systemically important insurers (G-SIIs). G-SIIs are the insurance subset of global systemically important financial institutions (G-SIFIs), or institutions of such importance that their failure would have a significant effect on the global economy. The FSB is tasked with identifying G-SIFIs, and G-SIIs, in order to help promote the

coordination of effective financial sector policies at an international level. Following designation, concerns have been raised over the selection methodology employed.

Three U.S. firms—AIG, Prudential Financial, and MetLife—were designated, along with Allianz SE, Assicurazioni Generali S.p.A., Aviva plc, Axa S.A., Ping An Insurance (Group) Company of China, and Prudential plc. Consideration for reinsurers was deferred until July 2014. (*cont. on page 4*)

NCOIL Urges...

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in an ongoing war on terror and the threat of attacks remains. Acknowledging that future attacks could include use of chemical or radiological weapons and cause significant casualties, the resolution says that failure to extend TRIA would likely result in insurer inability to offer widespread coverage for **future acts of terrorism** and negatively impact economic recovery after an attack.

Approval of the resolution reasserts historical NCOIL support of TRIA. NCOIL urged TRIA development in 2002, as well as extension in 2005 and 2007. An NCOIL Terrorism Task Force solicited and received survey responses documenting large **negative impacts on states** and municipalities after 9/11.

The fight for TRIA extension may be difficult. Chairman of the House Financial Services Committee Jeb Hensarling (TX) has signaled his desire to eventually eliminate TRIA by encouraging private industry to develop dedicated capital for underwriting terrorism risks and phasing out the program. There are three **bills to extend TRIA** pending in the U.S. House of Representatives. At present there are no TRIA bills in the Senate, though Section 319 of the Senate-passed budget resolution provides for a deficit-neutral reserve for terrorism risk insurance.

NCOIL Moves to Adopt...

and to look for opportunities to improve what's already in place.”

NCOIL is asking that any submissions be specific in nature, rather than general, with a Sept.

A host of interested parties offered written and/or oral comments to NCOIL regarding opioid abuse causes, consequences, and reform considerations—including the:

- American Academy of Hospice & Palliative Medicine (AAHPM)
- American Assoc. of Oral & Maxillofacial Surgeons (AAOMS)
- American Insurance Assoc. (AIA)
- American Medical Assoc. (AMA)
- Carnevale Associates LLC
- Coalition Against Insurance Fraud
- International Association of Industrial Accident Boards & Commissions (IAIABC)
- KY Office of Drug Control Policy
- KY Office of the Governor
- National Alliance for Model State Drug Laws (NAMSDL)
- National Association of Boards of Pharmacy (NABP)
- National Association of State Controlled Substances Authorities (NASCSA)
- National Council on Compensation Insurance (NCCI)
- Pharmaceutical Research & Manufacturers Assoc. (PhRMA)
- Property-Casualty Insurers Association of America (PCI)
- Work Loss Data Institute (WLDI)

6 response deadline. As with an NCOIL request for recommendations after the March Spring Meeting, NCOIL is reaching out to an array of interested parties—including medical and pharmaceutical professionals, insurance industry reps, anti-fraud advocates, law enforcement, district attorneys, and others.

NCOIL will circulate an updated version of the proposed best practices prior to October 21—the 30-day deadline for the Nov. 21 to 24 Annual Meeting in Nashville.

Although the Workers' Compensation Committee has spearheaded NCOIL's investigation

into opioid issues—since rising opioid use is dramatically impacting workers' compensation drug costs—NCOIL legislators recognize that concerns over opioid use are not limited to the workers' compensation system. The Annual Meeting session during which legislators plan to adopt the proposed best practices, therefore, will be a joint meeting of the Workers' Compensation Insurance and Health, Long-Term Care & Health Retirement Issues Committees.

The proposed best practices are available at www.ncoil.org, on the Model Laws & Resolutions/Committee Working Drafts page.

What the best practices would do

The NCOIL proposal reflects broad discussion with interested parties since early 2012 and takes a four-pronged approach to curbing opioid abuse, misuse, and diversion.

The guidelines look closely at prescription drug monitoring programs (**PDMPs**) and address concerns including interstate data sharing, who's allowed to use a PDMP, who reports to it and when, outcome evaluation, mandating physician use, and funding.

The draft best practices urge use of evidence-based **prescribing standards**—but in a way that acknowledges “one-size-does-not-fit-all”—and support treatment plans and use of closed formularies. The proposal also recognizes approaches to crack down on “pill mill” pain clinics.

The draft guidelines promote enhanced and effective **education** of physicians and the public, including mandated continuing medical education (CME) standards developed after consultation with experts, as well as opportunities for media outreach and safe drug disposal.

Also, the proposed best practices highlight drug **treatment and recovery**. They urge greater use of drugs that reverse overdoses and that help treat opioid addiction, and encourage broader use of drug courts.

Employer Mandate Delay Sparks Debate, Congressional Action

The Department of Treasury's surprise July 2 announcement that the employer mandate, a key requirement of the Affordable Care Act (ACA), would be delayed for one year continues to ripple through Congress and elsewhere.

Sen. Mark Begich (AK) proposed to take the Treasury announcement one step farther, introducing legislation on July 18 to delay the mandate for two years instead of one.

Some observers agree that the employer mandate delay is not enough. Reacting to the delay, Amanda Austin of the National Federation of Independent Businesses (NFIB), a small and independent business trade association, says that "Temporary relief

is small consolation. We need a permanent fix to this provision to provide long term relief for small employers."

Others argue that the delay will not impede the long-term goals of the ACA. Executive Director Ethan Rome of Health Care for America Now, a coalition promoting health reform, said that "The key thing is that implementation is moving forward and this does not affect the pace of implementation." He added that ultimately the delay will impact very few employers and employees. The administration has indicated that the individual mandate will remain in place.

A July 30 report from the non-partisan Congressional Budget Office (CBO) estimates that lost

finances from the delay will add \$10 billion to the cost of ACA insurance provisions over a ten-year period, though CBO continues to project a net reduction in the deficit due to other provisions.

CBO expects that only a few large employers will opt not to offer coverage in 2014 as a result of the delay. The analysis concludes that although roughly one million fewer workers will be enrolled in employment-based coverage next year due to the delay, half of those workers will find coverage through other avenues, such as Medicaid or the exchanges. CBO projects the total number of uninsured in 2014 will be approximately half a million higher than the previous estimate of 44 million.

Fact Findings: Insurer Participation in Exchanges

A report from the Urban Institute, entitled "Insurer Participation and Competition in Health Insurance Exchanges: Early Indications from Selected States," examines insurer participation in six exchanges: Colorado, Maryland, New York, Oregon, Rhode Island, and Virginia. The following are key excerpts from the report.

Colorado, Maryland, New York, and Oregon "have adopted mechanisms to require or encourage participation in both their individual and SHOP markets."

"State officials consistently noted an effort to avoid design features that insurers could perceive as causing market disruption or limiting competition, especially during the first years of implementation."

"...informants in all the study states except Rhode Island reported that they expect a robust number of insurers to participate in the exchange, including existing commercial carriers and, in some states, new entrants to the commercial market such as new

nonprofit CO-OPs and Medicaid MCOs."

"Most state respondents indicate that they expect the markets to be fairly competitive, which should lead to reasonably well-priced premiums, at least after the first year when much of the uncertainty has subsided."

"There is general consensus that the first year will be somewhat chaotic [for pricing]...Many think that some insurers will price relatively high (cont. on p. 4)

Legislators Gain Insight into Distracted Driving Reasons & Results

In a packed room at the Philadelphia NCOIL Summer Meeting, 50 legislators from around the country learned why we drive distracted, why common **myths are false**, and what to expect down the road—including how distracted driving laws might compare to those for drunken driving.

The educational session—entitled *Distracted Driving:*



Truth and Consequences—was led by Dr. Paul Atchley, who chairs Undergraduate Studies at the University of Kansas and serves as Director of the University's Ph.D. Program on Cognitive Psychology.

The event was **open to state legislators** and insurance regulators. It was the most recent in a series of NCOIL luncheon seminars presented by The Griffith Foundation for Insurance Education. Attendees **earned credits** toward certification by the NCOIL Institute for Insurance Policy.



NCOILetter

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NCOILetter do not necessarily
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The *NCOILetter* is published by
Nolan Associates LLC.

LIST OF GLOBAL...

In selecting the nine initial G-SIIs, the IAIS and FSB used five factors to assess relative systemic importance: (1) non-traditional insurance and non-insurance activities; (2) interconnectedness; (3) substitutability; (4) size, and (5) global activity.

FACT FINDINGS... (cont. from p. 3)

to have a presence in the market but not necessarily build up market share, while pricing more aggressively in the second year as they gain more familiarity with the market.”

“Although some insurers’ rates were not publicly available for this initial analysis, it is clear that there will be significant variation in premium rates for QHPs in exchanges. What is less clear, perhaps, is whether and how much they will change when there is an opportunity to re-bid.”

(cont. from page 1)

Some U.S.-based insurers have noted disappointment as to the private nature of the selections, having hoped for a more public forum for discussions. Concerns also have been raised about the possible application of more ‘bank-centric’ standards to insurance activities, as well as about dual regulation and increased regulatory costs.

The newly designated G-SIIs will now face the prospect of closer regulatory scrutiny and tougher capital standards. The policy measures, which are not binding unless implemented by individual countries, include recovery and resolution planning requirements, enhanced group-wide supervision, and higher loss absorption requirements. NCOIL has been exploring IAIS and G-SII developments and will next examine the issue at the November Annual Meeting.