

## Insurance Regulator Says “No” to Price Optimization

The District of Columbia has joined the list of territories that now ban insurers’ controversial use of “price optimization” to help establish property-casualty premiums, having issued an August 25 bulletin that calls the practice “discriminatory” and based on consideration of factors that “bear no relationship to the risk of loss and estimated expenses.”

Bulletin 15-IB-06-8/15, released by Acting Commissioner Stephen Taylor of the Department of Insurance, Securities and Banking (DISB), defines “price optimization” as “an insurer’s practice of charging the maximum premium that it expects an individual or class of individuals to bear, based upon factors that are neither risk of loss related nor estimated expense related. For example,” the bulletin continues, “an insurer may

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**2015 NCOIL  
ANNUAL MEETING**  
November 12 to 15  
San Antonio, TX



## NCOIL TO EXPLORE THE “SHARING” ECONOMY: WHAT IT IS AND WHAT IT PORTENDS

NCOIL legislators, recognizing that data technology companies and services are changing the way the world functions, will take a November 14 look at what the new dynamics mean for states, consumers, insurance, and the economy. The Annual Meeting session, entitled *The “Sharing” Economy: How Might It Change Insurance Regulation?*, will examine what “sharing economy” entails—including why transportation network companies (TNCs) like Uber and Lyft are just part of the story—and whether states are ready to respond.

The discussion will consider how to determine if existing insurance regulation is ready for the new “sharing” world, how the new paradigm affects risk-based pricing, what influence the “sharing” approach may have on various lines of coverage, and what insurers are doing and plan for the future.

Panelists will include representatives of the National Association of Insurance Commissioners, Insurance Services Office, academia, and other entities. The session will take place from 8:00 to 9:30 a.m. in San Antonio, Texas.

## HEALTH INSURANCE PREMIUMS: WILL WHAT GOES UP EVER GO DOWN?

As implementation of the Affordable Care Act (ACA) progresses and millions more Americans gain health insurance, NCOIL at its 2015 Annual Meeting will examine what’s been happening to health insurance premiums. State legislators charged with insurance public policy decisions will meet in Texas to weigh how premiums are playing out—are they higher than anticipated, what factors determine premium costs, and what’s applying pressure on rates?

In a symposium entitled *Health Insurance Premi-*

*ums: Will What Goes Up Ever Come Down?* on late Saturday morning, November 14, at the Hilton Palacio del Rio on the Riverwalk, leading experts will provide their perspectives on burning questions being brought forward — given two years experience since exchanges went online in October 2013.



Questions of great interest to (cont. on page 4)

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charge a non-price sensitive individual a higher premium than it would charge a price sensitive individual; despite their risk characteristics being equal.”

The bulletin says that the higher premium “may be realized directly or indirectly through tier placement, risk classification systems, underwriting, relativity factors, surcharges, fees, discounts” and other ways.

According to DISB, price optimization violates District insurance laws that (1) prohibit an insurer from making or permitting unfair discrimination between insured property that otherwise has “like insuring or risk characteristics”; (2) prevent rates from being excessive, inadequate, or unfairly discriminatory; and (3) require an insurer to give due consideration for past and future loss experience when setting rates.



Insurers that currently use price optimization for their District (cont. on p. 3 sidebar)

## NCOIL Annual Meeting Tentative Schedule

### THURSDAY, NOVEMBER 12

8:00 a.m.	-	9:00 a.m.	Officers & Chairs
9:00 a.m.	-	9:30 a.m.	Legislator Newcomer Welcome
9:45 a.m.	-	10:45 a.m.	Workers’ Compensation Insurance Committee
11:00 a.m.	-	12:00 p.m.	Financial Services & Investment Products Committee
12:00 p.m.	-	1:15 p.m.	NCOIL Institute for Insurance Policy: Legislator Luncheon Workshop
1:30 p.m.	-	2:45 p.m.	International Insurance Issues Committee/Task Force
3:00 p.m.	-	4:15 p.m.	Health, LTC & Health Retirement Issues Committee
4:15 p.m.	-	5:00 p.m.	Membership Committee/ILF Board
5:15 p.m.	-	6:00 p.m.	ILF Scholarship Donor Reception ( <i>by invitation of ILF Board</i> )

### FRIDAY, NOVEMBER 13

8:00 a.m.	-	9:00 a.m.	Business Planning/Bylaws Revision Committees
9:15 a.m.	-	10:15 a.m.	Life Insurance & Financial Planning Committee
10:30 a.m.	-	11:45 a.m.	<i>Special Health Committee Meeting on Telemedicine</i>
11:45 a.m.	-	1:00 p.m.	Keynote Luncheon
1:15 p.m.	-	2:15 p.m.	State-Federal Relations Committee
2:15 p.m.	-	3:15 p.m.	NCOIL-NAIC Dialogue
3:30 p.m.	-	4:30 p.m.	Legislator Roundtable
4:30 p.m.	-	5:30 p.m.	IEC Board Meeting



### SATURDAY, NOVEMBER 14

8:00 a.m.	-	9:30 a.m.	<i>General Session on the “Sharing” Economy</i>
9:45 a.m.	-	10:45 a.m.	Property-Casualty Insurance Committee
11:00 a.m.	-	12:30 p.m.	<i>Symposium on Health Insurance Premiums</i>

### SUNDAY, NOVEMBER 15

8:00 a.m.	-	9:00 a.m.	P-C Comm. Meeting on NCOIL Insurance Scoring Model
9:00 a.m.	-	10:00 a.m.	Executive Committee
		10:00 a.m.	Adjournment

## Legislators: Sign Up for Insurance 101 in Conjunction with NCOIL Meeting

On Wednesday, November 11—the day before the San Antonio NCOIL Annual Meeting—the non-profit Griffith Foundation will hold a special *Insurance Fundamentals for Policymakers—101* seminar to lay out the basic insurance concepts upon which current issues/trends are grounded.

The 1:00 to 5:00 p.m. seminar will look at concepts of risk manage-

ment and pooling, frequency/severity, underwriting, adverse selection, moral hazard, mitigation, and other concerns. The event is a required course for the *NCOIL Institute for Insurance Policy* certification program.

**Legislators attending the 101 seminar can save money on travel expenses**—and defray costs of also attending the No-

vember 12 to 15 NCOIL meeting. For the first 25 Griffith registrants, Griffith will cover one night in the NCOIL room block at the Hilton Palacio Del Rio, up to \$500 in transportation costs, and lunch. *Registration/more info at [www.griffithfoundation.org/Insurance101](http://www.griffithfoundation.org/Insurance101).*

*Registration for the NCOIL meeting is separate. Visit [www.ncoil.org](http://www.ncoil.org).*

## Experts Testify to U.S. House Financial Services Committee Members: Pros, Cons of Proposed Fiduciary Duty Rule

During a September 10 hearing entitled *Preserving Retirement Security and Investment Choices for All Americans*, experts weighed in on a proposed Dept. of Labor (DOL) rule to change to the ERISA definition of “fiduciary.” NCOIL wrote DOL on July 28 and urged further consultation with NAIC and other state officials before finalizing the rule.

The hearing was held by the Capital Markets & Government Sponsored Enterprises and the Oversight & Investigations Subcommittees of the House Financial Services Committee. Below are excerpts from written testimony.

### MR. CALEB CALLAHAN

*Senior VP & Chief Marketing Officer, ValMark Securities—for Assoc. for Advanced Life Underwriting*

“AALU believes that the DOL has prematurely jumped for a ‘solution’ in the retirement savings marketplace without fully stating or quantifying why this proposed rule is necessary or explaining why the existing regulatory framework cannot be built upon to address any problems. Further, the rule directly contradicts other governmental goals and initiatives, creating conflicts that will harm retirement savers.”

### MR. PAUL SCHOTT STEVENS

*President and CEO, Investment*

### Company Institute

“The Department relies on certain academic studies to support its claims that investors are harmed by their use of brokers. None of these academic studies actually compares the outcomes of investing with a financial advisor that is a fiduciary to the outcomes of investing with a broker or other financial advisor that is not a fiduciary. Further, these studies rely on outdated data (from the 1990s to roughly 2004) that fail to reflect fundamental changes in the market for broker-sold funds in the past 10 years.”

### PROF. MERCER E. BULLARD

*MDLA Distinguished Lecturer and Professor of Law, University of Mississippi School of Law*

“I strongly support the Department’s proposal and urge Congress to take proactive steps to help the Department finalize its rulemaking. The Department’s proposal to treat financial advisors who make investment recommendations to investors as fiduciaries will help protect investors from abusive sales practices and conflicted compensation arrangements... The financial services industry claims that the Department’s proposal cannot work. In fact, the proposal is eminently workable.”

### MS. JULI MCNEELY

*Owner, McNeely Financial Services - Pres., National Assoc. of Insurance & Financial Advisors*

“We are concerned that the Department of Labor ‘fiduciary duty’ proposals—while well-intentioned—will impose a wide range of new administrative requirements along with a ‘best interest’ standard that invites litigation regarding what satisfies that standard. Through the imposition of these requirements on advisors who are paid on a commission basis, the proposal implicitly favors a fee-for-service model that does not work for most Americans of modest means.”

### MR. SCOTT STOLZ

*Senior VP, PCG Investment Products, Raymond James & Associates*

“The complexity, ambiguity and legal requirements of the rule will insure that well-meaning advisors that work hard to put their client’s best interests first will be subject to Monday morning quarterbacking. Faced with this potential, advisors will make investment recommendations based in part on how they can best limit their future liability.... Raymond James has long been a supporter of a common fiduciary standard...We just do not believe that a rule hundreds of pages in length is necessary....”

## Insurance Regulator Says “No”...

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business must submit new SERFF filings, for both new and renewal customers, that no longer reflect use of the practice. The companies must refile by November 30, with proposed effective dates no later than March 31 of 2016.

On November 14, the NCOIL Property-Casualty Insurance Committee at the NCOIL Annual Meeting will discuss the District’s new ban and other price optimization activity, as follow-up to a special NCOIL Summer Meeting session.

CA, FL, IN, ME, MD, OH, and PA already ban price optimization.

## CBO Weighs Impacts of No ACA Mandate

According to the nonpartisan Congressional Budget Office (CBO) in a Sept. 15 estimate, a repeal of the Affordable Care Act individual mandate and related tax penalties would:

- » reduce the annual deficit by \$305.2 billion by 2025
- » lower the deficit through \$110 billion less in exchange subsidies & \$200 billion less in outlays for Medicaid and CHIP
- » increase individual-market premiums by 20 percent in all years from 2017 to 2025
- » increase the number of uninsured by 14 million by 2025



## NCOILetter

Susan F. Nolan, Publisher/Editor  
Candace Thorson, Managing Editor  
Andrew Williamson, Assoc. Editor

Sarah Furman, Operations Coord.  
Laurie Williams, Fin. Coordinator

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## HEALTH INSURANCE PREMIUMS...

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policyholders include: What are the newly insured discovering about the cost of their coverage? What goes into establishing a health insurance premium? How do regional differences and out-of-pocket costs factor in? What's applying upward, downward pressure on rates and why? How much premium pays for doctors and hospitals, and how much for insurer administration and profits? Is coverage cheaper in an exchange?

Confirmed speakers include Brian Webb of the National Association of Insurance Commissioners (NAIC) and Karen Bender of Oliver Wyman Actuarial Consulting. Invited panelists also represent consumers, insurers, employers, and hospitals.

## NCOIL ANNUAL MEETING NOVEMBER 12 TO 15, 2015

Join NCOIL in **SAN ANTONIO**  
at the Hilton Palacio Del Rio

Register today at [www.ncoil.org](http://www.ncoil.org)

\* tentative agenda now online \*  
*Find out what legislators will debate.*

