

NCOIL to Question U.S. Trade Activity in Light of State Authority

Legislators at the NCOIL Annual Meeting will consider on November 18 whether U.S. trade officials—as they negotiate free trade agreements (FTAs) and other arrangements—may be encroaching on state regulatory authority. Debate will center on a draft resolution, first aired in November 2010, that warns specifically of potential threats to state preferred drug lists (PDLs). But the Santa Fe event will also explore a broader question—what happens when the U.S. Executive Branch gets enhanced negotiating rights?

The draft *Resolution Opposing Commitments on Pharmaceutical Reimbursement & Insurance Regulation in Free Trade Agreements* responds to recent U.S. Trade Representative (USTR) initiatives—including a U.S.-Korea *(cont. on page 2)*



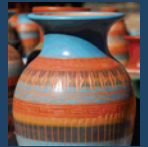
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Register Today!
NCOIL ANNUAL MEETING
Santa Fe, NM
November 17 — 20



NCOIL SLIMPACT LEGISLATIVE COMMITTEE MEMBERS CHOSEN

On September 29, NCOIL President Rep. George Keiser (ND) appointed Rep. Robert Damron (KY), Sen. Carroll Leavell (NM), and Rep. William Botzow (VT) to serve with him on an inaugural *Surplus Lines Insurance Multi-State Compliance Compact* (SLIMPACT) Legislative Committee. The action responded in short order to SLIMPACT Interim Chair Commissioner Sharon Clark's (KY) request for appointments.

As the SLIMPACT Commission awaits a tenth member, Commission representatives met on October 11

via webinar to consider Compact operations and processes. In mid-September, as per draft Commission bylaws, Commissioner Clark recommended that NCOIL and the National Conference of State Legislatures (NCSL) designate members to the Legislative Committee—a body, established in the SLIMPACT statute, that will formally advise the Commission as it develops uniform rules, bylaws, and a premium tax clearinghouse.

Under the draft bylaws—modeled after those of the successful 42-member *Interstate Insurance Product Regulation Commission* and *(cont. on page 4)*

NCOIL SYMPOSIUM TO GUIDE STATES ON HEALTH EXCHANGES

The Affordable Care Act (ACA) became law in March 2010, and at present 17 states have



authorized and are in some stage of developing their own health insurance exchanges. In dozens of other states, officials have yet to act. With so much left

to do—and a critical 2013 certification deadline looming—NCOIL is kicking off its upcoming Santa Fe Annual Meeting with a November 17 session entitled *Building an Exchange: What Options are Right For Your State?*

The two-part, three-hour special session will delve into key exchange components, such as governing with state, quasi-state, or nonprofit agencies; federal, regional, and single state exchange structures; merging individual and small business *(cont. on page 2)*

NCOIL Symposium...

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pools; plan offerings; rules inside and outside exchanges and adverse selection; and required multi-state health plans.

The event will feature two panels—an initial panel of consultants working with the states and a second panel of stakeholders who will respond to ideas brought forward by the first. The consultant group will include Milliman's Chris Girod and Rick Graham of Leavitt Partners, with Alan Weil of the National Academy for State Health Policy (NASHP) invited. The second panel will comprise consumer, insurer, agent, and state regulator representatives who will respond



to the consultants' comments on key components and other issues.

NCOIL will further explore how to get exchanges up-and-running on Saturday, November 19, in a related session entitled *Exchange Funding: Finding the Money, Figuring the Costs* from 9:45 until 11:15 a.m. ■

www.ncoil.org

NCOIL to Question...

FTA that nears congressional approval and a developing Trans-Pacific Partnership agreement. The



proval and a developing Trans-Pacific Partnership agreement. The

resolution urges the USTR to cease activity that could endanger PDLs and, in general, to defend the principles of state regulation.

The NCOIL International Insurance Issues Committee, responding to questions raised at a July *Free Trade Agreement 101* session,

has asked the USTR to overview what enhanced, or "fast track,"

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negotiating authority is, how it relates to recent trade agreements, and how it may impact congressional prerogative. Legislators also have asked USTR to outline how foreign tribunals may affect U.S. regulation.

Parties in the NCOIL discussions have included pharmaceutical industry representatives, consumer advocates, and state lawmakers closely involved in trade issues. The draft resolution is co-sponsored for discussion by Past Presidents Reps. Kathie Keenan (VT) and Robert Damron (KY). ■

On the Agenda: Annual Meeting Issues to Watch

The November NCOIL Annual Meeting will be jam-packed with critical state and federal issues. Below is just a flavor of what's to come.

CLASS Act Long-Term Care

After expressing concern with the federal CLASS Act long-term care program this summer, the Health, Long-Term Care & Health Retirement Issues Committee on November 19 will explore new developments—including the purported HHS decision to close the CLASS Act office—and possible federal changes to the program.

Dodd-Frank Act

Legislators on the Financial Services Committee will engage industry representatives—during a *Special Discussion of Dodd-Frank Act on-the-Ground Impacts* on November 17—on the reform law's present and projected day-to-day consequences and unexpected costs/efficiencies.

IIPRC

A host of NCOIL leaders on November 19 will move to reassert NCOIL support for the Interstate Insurance Product Regulation Compact (IIPRC) and to urge, via a draft resolution in the NCOIL State-Federal Relations Committee, non-compacting states to join the 42-member initiative.

Pension Reform

On November 17, the Financial Services Committee will consider a draft resolution supporting state pension authority and opposing a controversial federal bill that would tie certain government-bond tax benefits to new federal reporting rules.

Workers' Comp Cross-Border Coverage

On November 18, with state funds under financial strain, the Workers' Comp Committee will continue its review of cross-border rules for workers; look more closely at state, employer, insurer issues; and discuss a possible NCOIL response. ■



Legislators Move to Protect Senior Life Insurance Consumers

Insurance legislators at the Santa Fe NCOIL Annual Meeting will consider rules to ban deceptive “senior-specific” sales titles that serve to mislead elder life insurance and annuity consumers. NCOIL action, scheduled for November 17, follows a July State Leaders’ Summit in which officials explored regulatory modernization efforts—including adoption by insurance and securities regulators of new senior-oriented sales rules.

The Life Insurance & Financial Planning Committee, in an 8:00 to 9:30 a.m. session that will kick off the Annual Meeting, specifically will look at guidelines developed by the

National Association of Insurance Commissioners (NAIC) and North American Securities Administrators Association (NASAA) that aim to protect seniors while demonstrating to Congress that states can act decisively. Legislators will consider endorsing the models and urging state adoption, in line with recent NCOIL support of an NAIC *Suitability in Annuity Transactions Model Regulation*.

The NAIC and NASAA rules both would, among other things, make it an unfair trade practice to use a misleading senior-specific designation. This would include use of an unearned, non-existent or self-conferred sales title, among others. Additionally, the rules would forbid use of designations obtained from

marketing/sales organizations and from entities that don’t have reasonable standards on recipients’ competency, continuing education, and disciplinary standards/procedures.

Regulators at the July NCOIL Summit said the Dodd-Frank Act authorizes federal funds to increase state oversight and enforcement of proper sales. Enactment of the senior-sales rules and the NAIC suitability model, regulators said, is needed for a state to apply for up to three \$500,000 per-year grants offered through a new federal Consumer Financial Protection Bureau.

The Life Committee on November 17 will also debate controversial rules on life insurer procedures related to unclaimed death benefits. ■

NCOIL to Consider Proof-of-Coverage Privacy for Workers’ Comp

Should state-compiled information on employer workers’ comp insurance be kept confidential? Members of the NCOIL Workers’ Compensation Insurance Committee will attempt to answer this question—and help to **guide states with a host of diverse views**—when legislators on November 18 at the Santa Fe Annual Meeting consider a need for privacy protections.

In line with state laws requiring employers to have workers’ compensation for their employees, carriers must submit to states detailed insurance info, including **employer names and locations**, rating classifications, and policy expiration dates, among other things. Some in the insurance industry—including the Independent Insurance Agents & Brokers of America (IIABA), who feel the data should be proprietary as a work product or “**book of business**”—say third parties are using state Freedom of Information Act laws to access and **sell the information** as business leads. The IIABA says this amounts to an unfair business practice.

The NCOIL Committee, which will meet on Friday, November 18, from 1:30 to 2:30 p.m., voted in July to work with interested parties and to **develop a proposal** for Annual Meeting review. The proposal will be released prior to November. ■

SIGN UP FOR SANTA FE!

NCOIL ANNUAL MEETING

November 17 — 20

REGISTER TODAY AND SAVE!

El Dorado Hotel & Spa

TENTATIVE AGENDA

JUST UPDATED!

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for details!





NCOILetter

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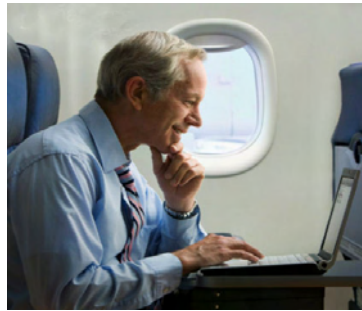
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tentatively accepted by SLIMPACT representatives at a July 15 meeting in Newport, Rhode Island—NCOIL and NCSL shall each appoint four legislators, one per NAIC zone. The groups should consult to achieve reasonable regional and political balance. Rep. Keiser's appointees sponsored or co-sponsored SLIMPACT legislation in their states.

The new Legislative Committee was introduced to Commission members during the October 11 webinar. The agenda featured review of bylaws amend-

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ments and an operational update, among other items. ■



NCOIL ANNUAL MEETING SAVE YOUR SEAT!

Meeting starts early Thursday, November 17
— runs to 10 a.m. on Sunday, November 20!

TENTATIVE AGENDA AT WWW.NCOIL.ORG

SANTA FE, NEW MEXICO