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NCOIL 2016 -Year in Review

Volume 1 of 2



NCOIL YEAR IN REVIEW

Thank you for working with and supporting NCOIL throughout 2016. Attached is Volume 1 of 2 of the NCOIL Newsletter Year in Review that highlights accomplishments from this year. Whether you traveled to Little Rock, AR, Portland, OR and Las Vegas, NV to participate in each of the meetings and shared your thoughts about how to increase NCOIL's value, came to just one, participated in any of the interim committee conference calls, helped educate Members of Congress about the threat of international encroachment to state-based regulation of insurance we appreciate your participation and look forward to seeing you in 2017.



Rep. Steve Riggs, KY
NCOIL President

NCOIL WRAPS UP PRODUCTIVE SPRING CONFERENCE IN LITTLE ROCK, AR

The national NCOIL conference in Little Rock concluded a productive meeting. Over 200 attendees and nearly three dozen legislators participated in committees and general sessions covering a wide ranging of insurance issues.

Senator Travis Holdman, NCOIL President stated "We did productive work in Little Rock. Committees met to discuss important issues we are facing in our states."

Committees heard from consumer and industry experts about the use of big-data in underwriting and rating, hosted several NAIC commissioners on issues including regulatory efforts regarding cyber-risk and insurance, a special discussion about the impact of Dodd-Frank Act on Insurance, discussed cybersecurity, considered model acts in the health committee, discussed proposed "covered agreements" for reinsurance collateral, con-

sidered opposing views about alternatives to workers compensation insurance and heard an update on unclaimed life insurance benefits.

In addition to the policy issues discussed, Senator Jason Rapert, NCOIL Secretary showed off the sites and culture of Little Rock by hosting a Capitol tour for attendees and entertaining guests by playing his fiddle along with his bluegrass band Living Grace at the Welcome Reception.

Senator Holdman led an all-participant discussion at a first of its kind Welcome Breakfast about the strengths and weaknesses of NCOIL and what the organization needs to do to enhance value to the legislators and participating interested parties.

Governor Asa Hutchinson delivered the luncheon keynote address and discussed the future

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Thomas B. Considine
NCOIL CEO

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Sen. Jason Rapert, AR
Vice President



Rep. Bill Botzow, VT
Secretary



Rep. Matt Lehman, IN
Treasurer



Sen. Travis Holdman, IN
Immediate Past President

of the health insurance exchange in Arkansas. The general sessions heard from experts on two interesting topics. Auto Insurance: What's Happening in the Market? What Does it Mean to be Affordable? and Health Insurance Exchanges at Year Three: Where are we now and What will the Future Hold? The Life Insurance & Financial Planning Committee readopted the Beneficiaries' Bill of Rights, Life Insurance Disclosure Model Act and the Long-Term Care Tax Credit Model Act.

"We're off to a good start" said NCOIL CEO Tom Considine, who began his tenure January 1st. "Sen. Holdman, the officers and leadership group are great. One of the few things that the representatives of industry, the think tanks and the consumer groups all seem to agree on is that we need to get NCOIL back to the point where it is a real difference maker in the insurance legislative arena."

NCOIL REACTS TO HOUSE FINANCIAL SERVICES PASSAGE OF H.R. 2901

Rep. Steven Riggs, NCOIL Vice President applauded the passage of H.R. 2901 by the House Financial Services Committee. "We support the ability of private insurers to issue flood insurance policies that mortgage issuers recognize as the same as policies issued by the National Flood Insurance Program" said Riggs "This modernization is a positive first step to realizing that goal. At least half of this entire market could be underwritten by the private side that will offer more options at lower cost."

Currently, NFIP is the exclusive provider of flood insurance. Private carriers can issue coverage on behalf of the NFIP through its "Write Your Own" program, which allows participating companies to write and service

the NFIP's standard insurance policy in their own names. This is far different from private carriers underwriting and pricing the risk themselves. H.R. 2901, the Flood Insurance Market Parity and Modernization Act requires private Flood insurance to be treated the same as federal Flood insurance by homeowners' mortgage issuers that require flood insurance as a condition for the mortgage. The legislation is sponsored by Reps. Dennis Ross (R-Fla) and Patrick Murphy (D-Fla).

Added "Homeowners that are required to buy Flood insurance deserve a variety of options that are treated equally" stated Riggs. "It is my hope that this will spur competition in the marketplace and drive costs down."

NEW WEBSITE

Please visit NCOIL.org for our new interactive website.

Commissioner Considine noted "When I was appointed NCOIL CEO, the officers and I made a commitment to a new spirit of openness and growth. Part of that is ensuring that the information, which NCOIL spends countless hours developing, is readily accessible for legislators, commissioners, staff and interested parties so sound public policy can be enacted. The new website is another step to achieving these goals."

The website allows access to model laws, NCOIL committee minutes and upcoming meetings for user engagement as well as a streamlined conference registration process through Eventbrite.com.

NCOIL NAIC SUMMIT WITHIN A SUMMIT

NCOIL leadership, including President Travis Holdman (Sen - IN), Vice President Steve Riggs (Rep - KY), Property & Casualty Committee Chair Matt Lehman (Rep - IN) and CEO Tom Considine, participated in an NCOIL-NAIC Summit with NAIC leadership including President John Huff (Dir - MO), Vice President Julie McPeak (Cmsnr - TN), Sec-Treas Eric Cioppa (Supt - ME), Midwest Zone Officers Nick Gerhart (Cmsnr - IA) & John Doak (Cmsnr - OK),

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Cmsnrs. David Altmaier (FL), Ken Selzer (KS) and Gordon Ito (HI), as well as NAIC Interim CEO Andy Beal (COO & CLO) and members of his senior staff. The meetings took place from May 16th – 18th in Kansas City within a larger NAIC Insurance Summit, and also included six legislators from neighboring states and Dep. Ins. Cmsnr. Clark Shultz (KS). “These sessions provided another opportunity for the leadership of the two organizations to break down the wall between us so we can cooperate more in the interest of protecting state-based insurance regulation,” commented NCOIL President Holdman.

The topics discussed included the role of the NAIC in the insurance regulatory construct; the financial analysis services provided by the NAIC to the states; an overview of the NAIC’s data protection initiatives; a discussion of market regulation & consumer protection; a status update

regarding the National Insurance Producer Registry (NIPR) & the Interstate Insurance Product Regulation Compact (IIPRC), and a tour of the NAIC’s data center.

“We had frank, candid, productive discussions,” stated NCOIL VP Riggs. “I believe we moved the ball forward in our developing partnership.”

At the conclusion of the NCOIL-NAIC Summit, the legislators were free to remain for the balance of the larger NAIC Insurance Summit. “I appreciate being invited here,” added Rep. Lehman. “I would encourage any of my colleagues to attend who have the opportunity in the future.”

“I believe much of the material we discussed here would be valuable to our full membership,” stated NCOIL CEO Considine, “so I plan to add a session to some of the meetings in the future where NAIC senior staff can come in and explain what it is they do, and how they add to the mission of state regulation.”



NEW HHS-CMS REGULATION PRESENTS CATCH-22 FOR HEALTH SAVINGS ACCOUNT OWNERS

Regulations promulgated in March 2016 by the Department of Health and Human Services (HHS) & Centers for Medicare & Medicaid Services (CMS) will effectively eliminate health savings accounts (HSA) qualified health plans from the insurance exchanges when the regulations go into effect next year.

Under the regulations, consumers can either choose an ACA Qualified Health Plan (QHP) or an Internal Revenue Service (IRS) qualified HSA; they would be precluded from selecting a plan that qualified as both, as they can currently. This is because the out-of-pocket limits and deductible requirements for qualified exchange-based plans set by HHS will conflict with those set by the IRS for HSAs.

Additionally, the regulation requires plans to cover numerous services below the deductible such as a limited numbers of primary-care visits, specialty-care visits, mental-health and substance-use-disorder outpatient services, urgent-care visits and drug benefits. However, IRS qualified HSA health plans are not permitted to cover any services below the deductible except for preventive services.

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As a result of those conflicts, the millions of Americans who currently finance their present and future health care needs through HSAs will face a "Catch-22": keep their HSAs, which will result in them being advised they are losing coverage within six months of the expiration of their current plan year; or choose a "qualified" plan on the exchange and forego the opportunity to have an HSA, and thus be left with a plan that will not best meet their unique health care and financial needs.

NCOIL does not believe that depriving individuals of choices relating to a critical issue such as their health is a prudent regulatory practice. The HHS regulation will reduce individuals' coverage choices, and thereby eliminate competition and innovation in health plans.

NCOIL looks forward to further discussing these issues at its Summer Meeting in Portland, Oregon from July 14-17.

COVERED AGREEMENT WILL ENCROACH UPON U.S. STATE-BASED REGULATION OF INSURANCE

U.S. and EU representatives recently met and announced their continued efforts towards the pursuit of a covered agreement. NCOIL is part of a large group that is concerned over the standards involved in the possible implementation of a covered agreement.

A covered agreement relates directly to the EU's new insurance regulatory reform known as Solvency II, which requires the EU to make an "equivalence" determination for non-EU countries in the areas of group supervision, group solvency, and reinsurance. Non-EU based companies from countries that have been deemed equivalent will be subject to less stringent regulatory standards to operate in the EU than those jurisdictions, such as the U.S., that have not been deemed equivalent. While a covered agreement may be one method for achieving "equivalence" under Solvency II, NCOIL

considers a covered agreement to be a drastic step because it could potentially preempt State law and undermine the U.S. system of State-based regulation of insurance.

Of specific concern is a covered agreement relating to reinsurance collateral requirements. Foreign reinsurers' regulators and politicians have objected to their companies having to post a high amount of collateral in the U.S. because it makes such capital unavailable for other purposes. NCOIL believes that if the Federal government enters into a covered agreement on reinsurance collateral, thereby capitulating to the requests of representatives of foreign reinsurers to post little to no collateral in the U.S., small and medium sized U.S. insurers and their customers will be greatly disadvantaged.

NCOIL looks forward to further discussing these issues at its Summer Meeting in Portland, Oregon from July 14-17.

NCOIL FINANCIAL PLANNING COMMITTEE PASSES RESOLUTION URGING REPEAL OF DEPARTMENT OF LABOR FIDUCIARY RULE

The NCOIL Life Insurance & Financial Planning Committee passed a resolution sponsored by Arkansas Senator Jason Rapert during the Summer Meeting in Portland, Oregon urging the repeal of the recently issued Department of Labor (DOL) Fiduciary Rule (Rule). The Resolution passed by a vote of 14-3.

Among other things, the Rule expands the circumstances under which providing

"investment advice" gives rise to "fiduciary" status under the Employment Retirement Income Security Act (ERISA) and the Internal Revenue Code (Code). The Rule, which became effective June 7, 2016, has been the source of both strong support and criticism.

Supporters of the Rule claim that it protects



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consumers by raising the standards for professionals who provide retirement investment advice. However, opponents claim that the DOL exceeded its statutory authority and that the Rule is burdensome, unworkable and will drive up the costs of retirement investment advice and services for businesses and consumers alike.

Several lawsuits have been filed seeking to strike down the Rule. Plaintiffs include the U.S. Chamber of Commerce, the National Association of Fixed Annuities, the American Council of Life Insurers and the Nation-

al Association of Insurance and Financial Advisors. Additionally, Congress opposed the Rule by passing a Joint Resolution of Disapproval (H.J. Res. 88), although it was ultimately vetoed by President Obama.

Senator Rapert's Resolution will be considered by the Executive Committee at NCOIL's Annual Meeting in Las Vegas, NV in November. You can view the Resolution here:

<http://ncoil.org/wp-content/uploads/2016/07/DOL-resolution-portland.pdf>



Available Sponsorship Opportunities

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MARCH 3-5, 2017

