

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS  
EXECUTIVE COMMITTEE  
SAN ANTONIO, TEXAS  
FEBRUARY 27, 2004  
DRAFT MINUTES

The National Conference of Insurance Legislators (NCOIL) Executive Committee met at the Hyatt Regency San Antonio Hotel in San Antonio, Texas, on Friday, February 27, 2004, at 5:00 p.m. Sen. Steven Geller of Florida, NCOIL President, presided.

Other members of the Executive Committee present were:

Rep. Terry Parke, IL  
Rep. Shirley Bowler, LA  
Rep. Larry Julian, MI  
Rep. Mary Ann Middaugh, MI  
Sen. Alan Sanborn, MI  
Rep. Greg Davids, MN  
Sen. Bob Dearing, MS  
Sen. Billy Hewes, MS  
Sen. Pam Redfield, NE  
Sen. Carroll Leavell, NM  
Assem. Nancy Calhoun, NY  
Sen. William Larkin, NY  
Sen. Jim Seward, NY  
Rep. George Keiser, ND  
Sen. Jerry Klein, ND  
Rep. Frank Wald, ND  
Rep. Geoff Smith, OH  
Rep. Tony Melio, PA  
Rep. Brian Kennedy, RI  
Rep. Craig Eiland, TX  
Rep. Gene Seaman, TX  
Rep. Kathleen Keenan, VT  
Rep. Gini Milkey, VT  
Rep. Mark Young, VT

Others present were:

Bob Mackin, Mackin & Company, NCOIL Executive Director  
Susan Nolan, Mackin & Company, NCOIL Deputy Executive Director  
Candace Frick, NCOIL Director of Legislative Affairs and Education, Property-  
Casualty and Workers' Compensation Insurance  
Fran Liebich, NCOIL Director of Legislative Affairs and Education, Health and  
Life Insurance

Tim Tucker, NCOIL Director of State-Federal Relations  
Teresa Casey, Mackin & Company

#### MINUTES

Upon a motion, duly made and seconded, the Committee voted unanimously to approve, as submitted, draft minutes of its last meeting, held on November 21, 2003, in Santa Fe, New Mexico.

#### FINANCIALS

Upon a motion, duly made and seconded, the Committee voted unanimously to receive

- December 31, 2003, NCOIL unaudited financials
- December 31, 2003, ILF unaudited financials
- December 31, 2003, Almanac unaudited financials

#### EXECUTIVE COMMITTEE NOMINATIONS

Rep. Larry Julian of Michigan nominated Rep. Joe Hune, also of Michigan, to replace him on the Executive Committee. The nomination was seconded and unanimously approved.

Rep. Kathleen Keenan of Vermont nominated Rep. Dan Brown of Florida and Rep. Dan Tripp of South Carolina to the Executive Committee. Both nominations were seconded and unanimously approved.

#### NONCONTROVERSIAL CALENDAR

Upon a motion, duly made and seconded, the Committee voted unanimously to adopt the noncontroversial calendar, which included:

From the Workers' Compensation Insurance Committee:

- *Model State Structured Settlement Protection Act (NSSTA/NASP Compromise Model)*

From the State-Federal Relations Committee:

- *Market Conduct Surveillance Model Act*

From the Life Insurance Committee:

- *Insurance Compliance Self Evaluative Privilege Model Act*
- *Secondary Addressee Model Act*

From the Health Insurance Committee:

- *Mental Health Parity Model Act*

## COMMITTEE REPORTS

### HEALTH INSURANCE COMMITTEE

Rep. Keenan, Chair of the Health Insurance Committee, reported that the Committee had received a brief description and a copy of a book entitled *Insuring America's Health: Principles and Recommendations*, and heard reports on

- association health plans
- the federal Medicare bill
- the managed care crisis
- fraud issues and legislation
- direct-to-consumer advertising
- prescription drug importation

Rep. Keenan also urged legislators to submit their UPPL surveys so that NCOIL could fulfill its obligation to the Robert Wood Johnson Foundation, which had given a grant to the ILF for the survey. She said that the ILF and NCOIL could pursue similar grants in the future.

### INTERNATIONAL INSURANCE ISSUES COMMITTEE

Rep. Mark Young of Vermont, Chair of the International Insurance Issues Committee, reported that Christian Pierotti of the Comite European des Assurances had discussed changes in insurance regulation in the European Union. He also said that South Carolina Insurance Director Ernst Csiszar, NAIC President, and Doug Barnert of Barnert Associates, Inc., had reported on international accounting issues.

### LIFE INSURANCE COMMITTEE

At the request of Rep. Greg Davids of Minnesota, Chair of the Life Insurance Committee, Rep. Young, Chair of the Life Settlements Subcommittee, reported that the Subcommittee had called for comments to the draft NCOIL *Life Settlements Model Act* within ten days. Rep. Young reported further that interested parties would meet in Albany, New York, on May 7 or May 14 to work to complete the draft model in order to meet the 30-day rule for a working draft of the Life Settlements Model.

Rep. Davids reported that the Life Insurance Committee had discussed a catastrophic illness list with regard to the *Proposed NCOIL Genetic Discrimination Model Act*. He said that the Committee had also heard comments from Nancy Davenport of the American Council of Life Insurers and Andrew Faucett of the National Society of Genetic Counselors on the issue.

Rep. Davids reported that the Committee had waived the 30-day rule and made a technical amendment to the proposed *Genetic Discrimination Model Act*.

Rep. Davids reported that Ms. Davenport had reported on long-term care insurance.

Rep. Davids reported that Howard Goldblatt of the Coalition Against Insurance Fraud had reported on fraud issues and legislation.

Rep. Davids reported that the Life Insurance Committee had

- deferred consideration of the *Life Settlements Model Act*, which was up for reconsideration pursuant to the sunset provisions of the bylaws, until the NCOIL Summer Meeting in Chicago;
- readopted the *Insurance Compliance Self Evaluative Privilege Model Act*; and
- readopted the *Secondary Addressee Model Act*.

#### PROPERTY-CASUALTY INSURANCE COMMITTEE

Rep. George Keiser of North Dakota, Chair of the Property-Casualty Insurance Committee, reported that the Committee had heard updates on asbestos and rate modernization.

Rep. Keiser reported that Rep. Brian Kennedy of Rhode Island, sponsor of the proposed *Notice & Opportunity To Cure Model Act*, had successfully moved that the Committee table the model indefinitely.

Rep. Keiser said that the Committee had heard reports on the Competitive Loss Underwriting Exchange (CLUE) database, a loss-history database. He said that the Committee believed that a general session on the subject during the Chicago Summer Meeting would be beneficial. Sen. Geller said that there would be such a session.

Rep. Keiser reported that the Committee had amended and adopted a *Resolution Regarding Medical Malpractice Reform*, and presented the resolution to the Executive Committee.

Following a lengthy discussion, upon a motion duly made and seconded, the Committee voted to waive the 30-day deadline rule and consider an amendment to the resolution. Upon a motion duly made and seconded, the Committee voted to amend the resolution to strike a remaining reference to NCOIL's support for federal efforts to stabilize the medical malpractice insurance market. Rep. Keiser said that the resolution, as amended, would support only state efforts to reform medical malpractice, including, among other things, establishing reasonable caps on non-economic and punitive damages and allowing for admission of collateral-source evidence. He said the resolution dealt primarily with medical malpractice reform as it related to tort issues.

Following further discussion, upon a motion duly made and seconded, the Committee voted 20 to eight in a roll-call vote to adopt the resolution as amended.

Rep. Keiser reported that, following a lengthy discussion, the Committee had voted not to amend the *NCOIL Model Act Regarding Use of Credit Information in Personal Insurance* to address the meaning of "sole use." He said that the discussion was in response to a request from the NAIC that NCOIL clarify the definition of "sole use" of credit information, particularly as it relates to the use of minimum thresholds.

Sen. Geller said that NCOIL would address the issue during the Summer Meeting. He said that NCOIL would then respond to the NAIC's request for clarification on the issue.

Rep. Keiser reported that Rep. Kennedy and Sen. David Bates of Rhode Island had sponsored a *Property/Casualty Flex-Rating Regulatory Improvement Model Act*, which the Committee had adopted. He presented the model to the Executive Committee.

Rep. Bowler proposed an amendment to the model, which clarified that NCOIL supported flex-rating as an interim step toward more open competition, as demonstrated in the *NCOIL Property/Casualty Insurance Modernization Act*. Rep. Kennedy seconded the motion. The amendment was adopted unanimously.

Upon a motion duly made and seconded, the Committee voted unanimously to adopt the model.

#### REPORT ON SPECIAL P-C COMMITTEE MEETING ON NATURAL DISASTER INSURANCE LEGISLATION

Rep. Keiser said that the Property-Casualty Insurance Committee would:

- develop best practices regarding natural disaster mitigation
- consider alliances with the NAIC, governors, and economic development professionals
- explore the feasibility of incorporating broader natural disaster insurance provisions in the *NCOIL State Flood Disaster Mitigation and Relief Model Act*
- explore the feasibility of natural disaster interstate compacts
- explore tax credits for mitigation

#### STATE-FEDERAL RELATIONS COMMITTEE

Sen. James Seward of New York, Chair of the State-Federal Relations Committee, reported that the Committee had held a special meeting on the proposed *Market Conduct Surveillance Model Act*. He said that the Committee had adopted the model, and that the Executive Committee had adopted the model on the noncontroversial calendar.

Sen. Seward said that the Committee had met a second time, and heard reports on the threat of optional federal chartering to state regulation of insurance. He said that Sen. Geller and Tim Tucker, NCOIL Director of State-Federal Relations, had reported on Congressional meetings. He said that other contributors to the discussion included Bill Anderson of the National Association of Insurance & Financial Advisors, Kevin McKechnie of the American

Bankers Insurance Association, and Wes Bissett of the Independent Insurance Agents and Brokers of America.

Sen. Seward said that Director Csiszar had reported on NAIC issues, including the *Interstate Insurance Product Regulation Compact*. He said that the Committee had also heard a report on the *Compact* from Ms. Davenport, and a report from the Financial Services Subcommittee.

Following discussion and a motion duly made and seconded, the Committee voted unanimously to authorize NCOIL leadership to develop a document that legislators could use to communicate with Congress in opposition to optional federal chartering. During the discussion, it was noted that Members of Congress may not fully understand the importance of the issue to states, specifically with regard to premium tax revenues.

#### WORKERS' COMPENSATION INSURANCE COMMITTEE

Sen. Carroll Leavell of New Mexico, Chair of the Workers' Compensation Insurance Committee, reported that the Committee had heard reports from

- Brent Hatch of the Texas Workers' Compensation Commission on recent reforms in the Texas workers' compensation insurance system
- Mr. Goldblatt on fraud
- Mona Carter of the National Council on Compensation Insurance on the workers' compensation insurance marketplace

Sen. Leavell reported that the Committee had allowed the *Structured Settlement Transfers Protection Model Act* to sunset, and had adopted a proposed NSSTA/NASP compromise structured settlements model act, which the Executive Committee had adopted on the non-controversial calendar.

#### BUSINESS PLANNING COMMITTEE

Sen. Geller, Chair of the Business Planning Committee, said that the Committee had discussed future sites and asked legislators to submit comments on possible future sites. He said that the Committee had also discussed membership and dues, and asked that legislators get their states' dues payments in.

Sen. Geller said that the Committee had not resolved outstanding issues with regard to the NCOIL Web site. He said that Rep. Craig Eiland of Texas would chair a subcommittee on the Web site, which was charged with evaluating proposals to refine the restricted-access system on the site and with presenting a final proposal to the full Business Planning Committee during the July Summer Meeting. Sen. Geller said that interested parties would have until March 26 to submit their suggestions for revising the current Web site system.

#### TRANSITION COMMITTEE

Rep. Eiland, Chair of the Transition Committee, reported that Rep. Young and Sen. Bill Larkin of New York had joined the Committee, which was charged with recommending a successor to Bob Mackin, Executive Director, whose resignation would take effect during the NCOIL Annual Meeting in November. He said that the Committee had met by telephone and in person, and presented a resolution that would appoint Susan Nolan, present NCOIL Deputy Executive Director, to replace Mr. Mackin. Upon a motion, duly made and seconded, the Executive Committee voted unanimously to adopt the resolution.

#### REPORT ON ISSUES RELATED TO PROPOSED NCOIL APPROVED LIST OF REINSURERS MODEL ACT

Georgia Insurance Commissioner John Oxendine, Chair of the NAIC Reinsurance Task Force, reported on the NAIC's progress toward resolving issues relating to NCOIL's proposed *Approved List of Reinsurers Model Act*.

Comm. Oxendine said that the NAIC's focus had narrowed to two issues, 1) financial differences between European Union and U.S. systems, and 2) enforceability of foreign judgments.

Comm. Oxendine said that he would share correspondence that anecdotally referenced cases supporting U.S. reinsurers' claims that enforceability of judgments was a major issue relating to U.S. insurers' use of foreign reinsurers. Sen. Geller noted that without reference to specific cases, such anecdotes may not have much value.

Comm. Oxendine said that interested parties would meet in New York to resolve outstanding issues in this area.

Sen. Geller asked for the NAIC's input in time for consideration at the NCOIL Summer Meeting in July.

Sen. Geller also asked for industry comments by May 15.

#### ADJOURNMENT

There being no further business, the meeting was adjourned at 6:45 p.m.