ISSUE
11
2024

# NCOIL NEWSLETTER

Asw. Pamela Hunter, NY
President

Thomas B. Considine
NCOIL CEO

Sen. Paul Utke, MN
Vice President

Inside this issue:



## NCOIL Concludes Successful Annual Meeting in San Antonio

Belmar, NJ – The National Council of Insurance Legislators (NCOIL) concluded a highly successful 2024 Annual National Meeting (Meeting) from November 21st – 24th in San Antonio, TX. In what was the final of the organization's three National Meetings in 2024, there were 381 participants consisting of 77 legislators from 32 states, 13 first-time attendee legislators from 10 states, 6 Insurance Commissioners (or equivalent), and 10 total insurance departments represented.

The packed agenda was highlighted by the adoption of five new Model Laws. Additionally, NCOIL's policy Committees heard presentations and held discussions on a wide variety of emerging topics and important issues currently impacting the insurance and financial services marketplaces.

During the Meeting, the Nominating Committee met and voted to recommend a slate of new officers for next year. Rep. Jim Dunnigan (UT) will serve as Secretary, the first step in the NCOIL Officer ranks. The Committee also continued the advancement of Asw. Pamela Hunter (NY) who will now serve as President, Sen. Paul Utke (MN) who will serve as Vice President, and Rep. Edmond Jordan (LA) who will serve as Treasurer. Outgoing President Rep. Tom Oliverson, M.D. (TX) remains in the leadership as Immediate Past President. The full slate was elected on Sunday at the closing session.

"It's a great honor to serve as NCOIL President and I look forward to collaborating with this dedicated Officer group to build on the momentum of the past several years," said Asw. Hunter.

"I was proud to host NCOIL in my home state for a highly successful Annual Meeting. We were able to continue the organization's trend of both strong attendance and adoption of timely and important Model Laws and Resolutions," said Rep. Oliverson. "Throughout this year we saw participation from 137 legislators from 41 states and each Meeting had over 300 attendees. Those numbers are a testament to the hard work we've put in this year and a very positive indicator of where the organization is heading in 2025 and beyond."

NCOIL CEO, Commissioner Tom Considine stated, "NCOIL is really rounding out the year in a terrific way and the attendance from legislators, regulators, and interested parties in San Antonio shows how enthusiasm for NCOIL continues to grow. As I near the end of my service as NCOIL CEO, I could not be more pleased of the progress the organization has made over the past several years and I am very confident in the future success of NCOIL."

The Meeting kicked off with the 3rd NCOIL Open Insurance Legislators Foundation (ILF) Scholarship Golf Outing on Thursday afternoon. The event helped reinvigorate the ILF Scholarship Fund which helps legislators attend NCOIL National Meetings.

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Rep. Edmond Jordan, LA
Treasurer

Rep. Jim Dunnigan, UT
Secretary

Rep. Tom Oliverson M.D., TX
Immediate Past President

# NCOIL Concludes Successful Annual Meeting (cont'd)

At the traditional Welcome Breakfast on Friday morning, attendees were greeted by Texas Insurance Commissioner Cassie Brown who spoke about her experience overseeing the regulation of the second largest insurance market in the nation and the seventh largest in the world. Also during the Breakfast, Rep. Oliverson honored Cmsr. Considine's service to NCOIL by presenting him with a pair of custom cowboy boots embroidered with the NCOIL Logo.

Following the Breakfast, the policy committee meetings kicked off with the Health Insurance & Long Term Care Issues Committee, chaired by Rep. Dunnigan. The Committee adopted the NCOIL Value Based Purchasing Model Act, sponsored by Sen. Mary Felzkowski (WI), Chair of the NCOIL Financial Services & Multi-Lines Issues Committee. The Committee also introduced a hearing aide classification model law concept and held discussions on other issues including: the NCOIL Improving Affordability for Patients Model Act sponsored by Rep. Deborah Ferguson, DDS (AR), NCOIL Immediate Past President, and Rep. Oliverson; developments in vision care services legislation; and the prior authorization reform landscape. Sen. Walter Michel (MS), Chair of the NCOIL Articles of Organization & Bylaws Revision Committee, announced his intent to develop an NCOIL prior authorization reform Model Law next year using recently passed Mississippi legislation as a starting point.

"The Committee has made meaningful progress on a wide range of healthcare issues and I was proud to serve as its Chair," said Rep. Dunnigan. "I commend Sen. Felzkowski for the work she did in getting the Value Based Purchasing Model Act passed during our final Meeting of 2024 and I am looking forward to the continued discussions on the Improving Affordability for Patients Model Act and other emerging issues."

Sen. Justin Boyd (AR) then moderated Part Two of the NCOIL Special Series on Preventive Medicine titled "Food as Medicine and Advancing a Healthy America." Sen. Boyd said, "I was glad to facilitate Part Two of the important dialogue on preventive medicine that we started at our Summer Meeting in July. This is a topic that impacts everyone so keeping legislators informed is extremely important for sound public policymaking."

The Workers' Compensation Insurance Committee then met, chaired by Sen. Lana Theis (MI). The Committee heard perspectives on structured settlements from two presiding judges, as well as presentations on the state of work comp coverage for mental injuries and the uniqueness of the Texas workers' compensation insurance system.

"It was great for the Committee to conclude our work for the year with discussions on some of the most important issues in the Workers' Compensation marketplace right now," said Sen. Theis. "I was glad we were able to provide valuable information for legislators to take back to their respective states."

Rep. Carl Anderson (SC) then chaired the Life Insurance & Financial Planning Committee which adopted amendments to the NCOIL Life Settlements Model Act, sponsored by Rep. Forrest Bennett (OK). The Committee also heard presentations on wellness program innovations in the long term care marketplace, and on LexisNexis Risk Solutions' 2024 Life Insurance Mortality Risk Management Study. Updates were also provided on a draft Resolution in Favor of Encouraging a Redesign and the Use of Lifetime Income Investment Solutions in Defined Contribution Plans, and on the activities of the Interstate Insurance Product Regulation Commission (IIPRC).

"I was very pleased to see a consensus reached on the amendments to the Life Settlements Model Act," said Rep. Anderson. "I look forward to the Committee continuing its work in my home state during our Spring Meeting in April."

Friday concluded with a reception honoring NCOIL CEO Cmsr. Tom Considine, who will be retiring from NCOIL at the end of the year. During the reception, NCOIL Past Presidents Rep. Matt Lehman (IN) and Rep. Ferguson presented Cmsr. Considine with awards for his outstanding service to the organization.

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# NCOIL Concludes Successful Annual Meeting (cont'd)

**Future NCOIL Meetings:**

Spring 2025
April 24-27
Charleston, SC
Francis Marion Hotel

Summer 2025
July 16-19
Chicago, IL
Renaissance Chicago Downtown Hotel

Annual 2025
November 10-15
Atlanta, GA
The Whitley Hotel

"Serving as NCOIL CEO these past nine years has really been a labor of love. NCOIL was in real trouble a decade ago; I can't thank enough the officers who committed to making the changes necessary to turn things around, then 'walked the talk' in making it happen, as well as everyone who has participated in NCOIL and the CIP over these past 9 years. We have grown the organization together and re-established its relevance and importance to insurance public policy and the overall state based system of insurance regulation," said Cmsr. Considine.

Saturday began with a General Session titled "ERISA at 50: An Important Standard Setter or Roadblock to State Healthcare Innovations?" moderated by Asm. Jarret Gandolfo (NY). "NCOIL has had ongoing conversations around ERISA's impact on the health insurance market, highlighted by a proposed amendment to ERISA to add a statutory waiver provision so that States could seek ways to apply their particular reforms to all health insurance plans whose members all reside in that State – including self-insured plans of a certain number of members. U.S. Representative Pete Sessions (TX) has expressed interest in that amendment, so it's important that state legislators stay well informed on this topic."

A very productive NCOIL-NAIC Dialogue was then held which included a great lineup of NAIC representatives: Connecticut Commissioner and NAIC Past President Andrew Mais; Kansas Commissioner Vicki Schmidt; and Oklahoma Commissioner Glen Mulready.

Rep. Oliverson stated, "I continue to be pleased with the positive working relationship between NCOIL and the NAIC. Having an open dialogue between legislators and regulators is essential in preserving the state-based system of insurance regulation and promoting the best possible insurance market for our mutual constituencies."

At the Keynote Luncheon, John Ashford, Chairman and CEO of the Hawthorn Group, L.C. delivered a fascinating in-depth post-election presentation that touched on the outcome of the recent 2024 elections and their impact on the insurance industry.

A General Session was then held titled "Does SCOTUS' Chevron Repeal Mean a Rebirth for State Regulation?" moderated by Rep. Brenda Carter (MI). "The repeal of the Chevron Doctrine is a very significant ruling from the high court and it will certainly have implications for the state based system of insurance regulation. I was glad to facilitate this discussion to help give NCOIL legislators a deeper understanding of the issue," said Rep. Carter.

The Financial Services & Multi-Lines Issues Committee, chaired by Sen. Felzkowski then met and adopted the NCOIL Earned Wage Access Model Act, sponsored by Asw. Hunter, and the NCOIL Transparency in Third Party Litigation Financing Model Act, sponsored by Rep. Lehman and co-sponsored by Del. Steve Westfall (WV). The Committee also re-adopted the NCOIL Insurance Fraud Model Act and heard a presentation on inflation's impact on the insurance market.

"The Committee certainly had a busy year discussing two Model Laws on what are two of the most frequently discussed topics in state legislatures across the country," said Sen. Felzkowski. "Asw. Hunter and Rep. Lehman listened to all stakeholders that participated in the process, and each worked tirelessly to get their respective Models to places where they could be considered. Hearing from a wide array of interested parties and working to reach a consensus on an issue is really at the core of what NCOIL is all about."

Sunday began with a meeting of the Joint State-Federal Relations & International Insurance Issues Committee, chaired by Rep. Rachel Roberts (KY). The Committee adopted the NCOIL Model Act in Support of Mental Health Wellness Exams, sponsored by Rep. Roberts, as well as a Resolution in Support of Establishing Catastrophe Savings Accounts sponsored by Rep. Lehman, Sen. Michel, Rep. Ellyn Hefner (OK), and Rep. Anderson. The Committee also heard a presentation on patent practices in the prescription drug marketplace.

"I was glad the Committee was able to meet in San Antonio to advance a number of issues, and I was particularly pleased to see my Model in support of mental health wellness exams be adopted. I have been a strong proponent of expanding access to mental healthcare throughout my time in the Kentucky General Assembly and I hope that this Model can help legislators in states around the country provide important care for their constituents," said Rep. Roberts.

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# NCOIL Concludes Successful Annual Meeting (cont'd)

The Property & Casualty Insurance Committee, chaired by Rep. Bennett, then met and adopted the NCOIL Strengthen Homes Program Model Act, sponsored by Rep. Dunnigan and co-sponsored by Rep. Matthew Gambill (GA). The Committee also continued discussions on: the NCOIL Model Act Regarding Insurers' Use of Aerial Images, sponsored by Rep. David LeBoeuf (MA) and Rep. Brian Lampton (OH); the NCOIL Motor Vehicle Glass Model Act, sponsored by Rep. Michael Sarge Pollock (KY), Vice Chair of the Committee; and the NCOIL Online Marketplace Guarantees Model Act, sponsored by Rep. Lampton.

Rep. Bennett stated, "The adoption of the NCOIL Strengthen Homes Program Model Act is a big win for consumers and I'm proud that the Model is very similar to a recently passed law in my home state of Oklahoma. The Committee has a diverse set of Models still on its agenda and I look forward to continuing the discussions and development of those Models next year."

The Annual Meeting concluded on Sunday afternoon with a meeting of the Executive Committee in which Asw. Hunter was officially sworn in as President. Resolutions were also adopted in honor of NCOIL legislators departing their respective legislatures including: NCOIL Past Presidents Sen. Neil Breslin (NY) and Rep. Ferguson, as well as Rep. Roberts, Sen. Bob Hackett (OH), and Del. Westfall.

"Representative Oliverson did a wonderful job this past year as President and I thank him for hosting us in his home state for a very productive NCOIL National Meeting and for setting the organization up for a successful 2025," said Asw. Hunter. "I am looking forward to meeting in Charleston in April where we will have another agenda filled with important and timely insurance and financial services issues."

Committee minutes will be posted soon at www.ncoil.org. The 2025 NCOIL Spring Meeting will take place in Charleston, SC at the Francis Marion Hotel from April 24th – 27th. Registration will open in January.

## From the President's Desk

### *Rep. Tom Oliverson, M.D. (TX) – NCOIL Immediate Past President*

I hope everyone had a great Thanksgiving. As we close out 2024, I think it is fitting to take some time to reflect on what NCOIL has accomplished over the past several years, particularly this past one in which I had the great honor to serve as NCOIL President.

It was great to see so many of you in my home state during the recent NCOIL Annual Meeting in San Antonio as I concluded my term as President. The Meeting was highly successful and a product of the hard work we have all put in over the years to grow and strengthen the organization. Bringing together over 380 participants including 77 legislators from 32 states to discuss important and timely insurance public policy issues shows that NCOIL certainly is a ***national*** organization.

While I'd like to brag that my idea of having the Welcome Reception at the Historic Alamo was the reason for the strong attendance at the Meeting, I know the Meeting's success was part of a larger trend of NCOIL's growing reach and prominence. Throughout our three National Meetings of 2024, we saw attendance from 137 legislators from 41 states with each Meeting having over 300 attendees. In fact, we were last in Texas for an NCOIL National Meeting five years ago and we have seen a 33% increase in legislator attendance between that Meeting and this one.

Also, as an organization that is comprised of legislators, it is essential that we are recruiting new legislators to participate at our Meetings in order to both bring in fresh perspectives and to address the realities of term limits and overall departures from the legislature. I'm proud to say that this year we had over 50 legislators attend their first NCOIL National Meeting. Having more legislators familiar with NCOIL and how we develop Model Laws is very beneficial as it gives more credibility to those Models when they are introduced in State legislatures around the country.

These numbers show that legislators, regulators, and interested parties are really understanding the value that NCOIL provides to the state based system of insurance, and underscore that if you miss an NCOIL National Meeting, you truly are ***missing*** something.

## Future NCOIL Meetings:

Spring 2026
Louisville, KY
The Hyatt Regency

Summer 2026
July 15-18
Boston, MA
Westin Copley Place

Annual 2026
November 19-21
Sanibel, Florida
Marriott Sanibel Harbour Resort & Spa

As future Meeting locations are booked, they will be updated here as well as on the *NCOIL Website*

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## NCOIL Annual Meeting in Pictures:



# From the President's Desk (cont'd)

For example, in 2024 we adopted seven Model Laws, each dealing with an issue being heavily discussed in state legislatures:

- NCOIL Medical Loss Ratios for Dental (DLR) Health Care Services Plans Model Act;
- NCOIL Public Adjuster Professional Standards Reform Model Act;
- NCOIL Value Based Purchasing Model Act;
- NCOIL Earned Wage Access Model Act;
- NCOIL Transparency in Third Party Litigation Financing Model Act;
- NCOIL Model Act In Support of Mental Health Wellness Exams; and
- NCOIL Strengthen Homes Program Model Act

We also held discussions on a wide range of important issues including: the affordability and availability crises in the auto and home insurance marketplaces; access, cost, and coverage for obesity drugs; SCOTUS' repeal of the Chevron Doctrine; potential reforms to ERISA during its 50th anniversary; and more.

I was particularly pleased with our two part Special Series on preventive medicine held during our Summer and Annual Meetings. Part one focused generally on things such as the importance of preventive care and adherence to medicine and part two examined the role of proper nutrition in the prevention of disease and how food really is medicine. As a doctor, this is an issue I feel passionate about and I was glad we were able to provide information and guidance to our members on an issue of such importance as one's physical well-being.

NCOIL's growth and advancement has been a true team effort and all this progress could not have been possible without the dedication of the NCOIL Presidents who came before me, my fellow Officers, legislative colleagues, staff, and everyone who has participated in NCOIL. Thanks to all our efforts, NCOIL shows no signs of slowing down any time soon.

As Chair of the Texas House Insurance Committee and now NCOIL Immediate Past President, I have never seen a better time for legislators to get involved in this national organization. I strongly encourage every legislator – whether they are new to the legislature or have served for years – to get involved.

I look forward to continuing my service as an NCOIL Officer and seeing NCOIL continue to grow for many years to come.

Merry Christmas & Happy New Year!

*Tom*

# From the CIP*

***Submitted by PhRMA***

When you go to the pharmacy to pick up a prescription, you're seeing our intellectual property (IP) system at work. IP protections, including patents, incentivize risky and difficult biopharmaceutical research that leads to new medicines for patients. Then competition heats up, and more choices enter the market. Ultimately, patents expire, and patients benefit from lower cost generics and biosimilars indefinitely. This system keeps spending on medicines a small and stable share of health care spending at 14%, on par with other countries.

America's IP system balances innovation and affordability, providing U.S. patients with more medicine choices than anywhere else in the world. The United States is the global leader in biopharmaceutical innovation with more than half the global pipeline of new medicines developed here. In fact, Americans have access to 85% of globally approved new medicines, compared to less than 40% for Europeans, on average[1]. And today, there are more than 8,000 medicines in development, giving hope to patients around the world[2].

[1] https://phrma.org/en/resource-center/Topics/Access-to-Medicines/Global-Access-to-New-Medicines-Report
[2] PhRMA analysis of Adis Insight database.

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*This column is a submission of CIP Member PhRMA and reflects the PhRMA's perspective on the issue(s) discussed. The views, thoughts, and opinions expressed in the column do not necessarily reflect those of NCOIL.

## NCOIL Annual Meeting in Pictures:


NCOIL President Rep. Tom Oliverson, M.D. (TX) thanks NCOIL CEO Cmsr. Tom Considine for his service in true Texas fashion by presenting him with a pair of cowboy boots embroidered with the NCOIL logo.


# From the CIP (cont'd)

## *Submitted by PhRMA*

Despite the claims to the contrary, no company has a monopoly on treating a disease and patented medicines often have many competitors. Our IP framework is what fuels this competition and drives down costs by encouraging innovators to develop competing brand products different from others already on the market. Most new medicines already have at least one competitor on the market at the time of market entry or will have one shortly after. Evidence suggests this competition is also accelerating. Two decades ago, it took 16 years on average for a first-in-class medicine to have 2 competitors – now it takes an average of 2 years[3].

Payers leverage this competition to negotiate discounts and rebates. In fact, discounts, rebates and other price concessions lowered the price of brand medicines by more than half on average last year[4]. These dynamics have functioned to drive down prices in many therapeutic classes that have resulted in substantial progress for patients: For example, following the introduction of the first class of treatments to prevent migraine in 2018, competition lowered the price of treatment by more than 50% since the first launch in the class[5]. Since the first launch in a class of curative hepatitis C medicines, prices dropped by nearly 90%; similarly, for a class of highly effective treatments for high cholesterol, the price of treatment dropped by 85%. In the case of anti-obesity medicines (GLP1s), prices have dropped 47% since 2021 with the introduction of competition[6].

It is worth noting that every generic drug and biosimilar exists because of a brand medicine and today, 90% of prescriptions are filled with these low-cost medicines, which offer more affordable options for patients and long-term value to the health care system. Once generics launch, prices drop by nearly 85% and patients face average copays of just $6.16[7,8]. Owing to the success of the U.S. system in balancing innovation and affordability, generic medicines are 33% cheaper on average in the United States than in other OECD countries where generic uptake is much lower than our 90%, meaning the vast majority of prescriptions filled by American patients are less expensive here than in other developed countries. And this is good news, as the use of low-cost generics and biosimilars has provided the U.S. a collective $3.1 trillion in savings over the past 10 years alone[9].

Our IP system creates transparency of inventions, serving as the foundation for generic and biosimilar competition because patents require innovators to publicly share information about their inventions. Innovators spend years in clinical trials proving the safety and effectiveness of their medication before they can bring it to market. Generic and biosimilar manufacturers can then reference the innovator's data and apply for FDA approval of generic or biosimilar versions. Information sharing in patents, combined with abbreviated approval pathways through legislation like the Hatch-Waxman Act and Biologics Price Competition and Innovation Act (BPCIA), allows for generic and biosimilar launch immediately after patent protections expire. Medicines typically get far less exclusivity on the market before generic or biosimilar launch than the 20-year patent term. On average, brand-name drugs face generic competition after just 13 years on the market[10]. This is because patents are generally filed well before a medicine may be approved by the FDA.

Importantly, the certainty and predictability of our IP framework, which provides for these reliable periods of time before generic or biosimilar entry may occur, allows biopharmaceutical companies to invest years of time and significant resources, despite the low odds of success in bringing a new medicine to market. On average, it takes 10 to 15 years and $2.6 billion to develop just one medicine, and only 12% of medicines entering clinical trials are successful in obtaining FDA approval[11]. Fortunately, our world-leading innovation ecosystem – built on strong IP protections – rewards the risk taking necessary to innovate, which is why U.S. patients have more medicine choices than anywhere else in the world.

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[3] https://www.mckinsey.com/industries/life-sciences/our-insights/the-helix-report-is-biopharma-wired-for-future-success#/
[4] https://www.iqvia.com/insights/the-iqvia-institute/reports-and-publications/reports/medicine-spending-and-affordability-in-the-us
[5] PhRMA Analysis of SSR Data
[6] PhRMA Analysis of SSR Health Data.
[7] https://www.fda.gov/drugs/generic-drugs/generic-drug-facts
[8] https://accessiblemeds.org/sites/default/files/2023-09/AAM-2023-Generic-Biosimilar-Medicines-Savings-Report-web.pdf
[9] https://accessiblemeds.org/sites/default/files/2024-09/AAM-2024-Generic-Biosimilar-Medicines-Savings-Report.pdf
[10] https://www.tandfonline.com/doi/full/10.1080/13696998.2021.1952795
[11] https://www.sciencedirect.com/science/article/abs/pii/S0167629616000291

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## NCOIL Annual Meeting in Pictures:


Incoming NCOIL President Asw. Pamela Hunter (NY) Presents Outgoing President Rep. Tom Oliverson, M.D. (TX) with a plaque honoring his year as President


# From the CIP (cont'd)

### *Submitted by PhRMA*

But innovation doesn't stop the minute a medicine is FDA approved. IP protections further incentivize researchers to continue research and development after a product's initial FDA approval to improve the medicine, make it more effective or reduce side effects for patients, and expand treatment options. For example, the majority of cancer R&D is done after initial FDA approval – 62% of oncology medicines approved a decade ago received additional indications for other types of cancer[12]. Due to the ongoing nature of biopharmaceutical R&D, patent applications are often filed at later times as they can be based on innovations occurring at any point in the product lifecycle. Importantly, new patents do not extend the life of a previous one, so they don't block generic or biosimilar entry on the original invention.

Likewise, it is normal for technologically advanced innovations like biopharmaceutical products to be covered by multiple patented inventions because, like any product, they are made up of different dimensions of complexity and innovation. Even something as apparently simple as a golf ball can have dozens of patents[13]. And if you look at the number of patents granted in a year, only 6 biopharmaceutical companies show up on the top 300 list[14]. For biopharmaceutical products, these patents are critical to ensuring information about these advanced inventions are disclosed, paving the way for generic and biosimilar entry.

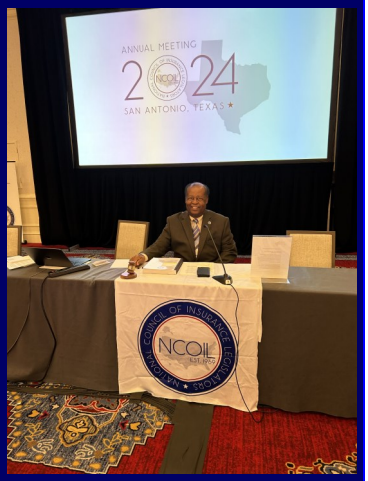
Unfortunately, misleading rhetoric that patents are increasing drug costs too often misrepresents biopharmaceutical R&D and the way intellectual property works to encourage innovation. What's worse, critics often rely on flawed data from the Initiative for Medicines, Access and Knowledge (I-MAK) to make claims of widespread gaming of the patent system in congressional hearings, media and other policy shaping venues. Yet, academics have routinely criticized this data as unreliable and inaccurate, and the U.S. Patent and Trademark Office (USPTO) has also criticized the methodology relied on by I-MAK to make its claims.

For example, I-MAK has alleged that biopharmaceutical companies "maintain[] market control by exploiting an outdated patent system" by "secur[ing] *hundreds* of patents to block competition." In its methodology for counting "total patents" covering a product, I-MAK "includes not just patents, but also pending patent applications[15], and even fully abandoned patent applications." Yet U.S. Patent and Trademark Office's (USPTO) recently published "Drug Patent and Exclusivity Study" expressly rejected this methodology, stating that "[a]bandoned applications do not result in granted patents, and thus, do not pose a barrier to competition" and pending patent applications "may never become patents," therefore, "the total of all abandoned and pending applications is not a meaningful metric[16]." Another article by legal expert Adam Mossoff states that "I-MAK's reported numbers of issued patents, patent applications, and exclusivity periods for drugs are infected with serious questions of reliability and accuracy," and he observes "repeated and vast discrepancies between I-MAK's numbers and the numbers found in official, publicly available governmental sources like the FDA's Orange Book and court opinions." Professor Mossoff notes that I-MAK cites exclusivity expiry dates for medicines that extend far beyond actual generic entry for these medicines and therefore have vastly inflated protections on biopharmaceutical products beyond reality[17].

Rather than overhauling the patent system based on these unfounded claims, policymakers should protect our world-leading innovation and IP ecosystem and address the root causes of patient access challenges by taking on the anticompetitive behavior of middlemen who block coverage and drive up costs. Patents are not stopping biosimilar and generic medicines from reaching patients. It's the middlemen — like insurers and their pharmacy benefit managers (PBMs) — who work to keep low-cost alternatives off their formularies that could provide lower out-of-pocket costs for patients. The PBM industry is dominated by three large companies that control 80% of the market[18]. A growing share of PBM compensation is tied to the list prices of medicines, which pushes PBMs to prefer medicines with higher list prices and large rebates over lower cost alternatives.

[12] https://www.pharllc.com/phar-quantifies-benefits-of-post-approval-rd-of-new-medicines/
[13] https://www.titleist.com/patents
[14] https://ipo.org/wp-content/uploads/2024/01/2024-Patent-300-IPO-Top-Patent-Owners-List.pdf
[15] Letter from Sen. Thom Tillis to Dr. Robert Califf and Mr. Drew Hirshfeld, at 2 (Apr. 1, 2022).
[16] USPTO, *Drug Patent and Exclusivity Study*, 2024. https://www.uspto.gov/sites/default/files/documents/USPTO_Drug_Patent_and_Exclusivity_Study_Report.pdf
[17] Adam Mossoff, *Unreliable Data Have Infected the Policy Debates Over Drug Patents*, at 5-6 (Jan. 2022).
[18] https://drugchannelsinstitute.com/products/industry_report/pharmacy/

## NCOIL Annual Meeting in Pictures:




Rep. Carl Anderson (SC) Chairs the Life Insurance & Financial Planning Committee


Legislators & Regulators engage during the NCOIL—NAIC Dialogue

# From the CIP (cont'd)

***Submitted by PhRMA***

Due to these misaligned incentives, PBMs and insurers routinely block access to generics and biosimilars. For example, just 21% of generic medicines newly launched in 2020 were covered on Part D formularies and only 66% were covered on commercial formularies in 2021[19]. Similarly, PBMs have consistently excluded authorized generic and biosimilar insulins from formularies in recent years. Starting in 2018, they began excluding biosimilars from their formularies for patients with commercial insurance. The prevalence of this practice has skyrocketed: In 2022, 14 biosimilars were excluded from the formulary of at least one of the three largest PBMs. The three largest PBMs drove slow uptake of biosimilars for a top-selling autoimmune medicine[20]. By Q1 of 2024, biosimilars had captured just 1% of the market because only 1 in 3 patients who were prescribed the biosimilar were able to fill the prescription, even though analysts found the net price for biosimilars were less expensive than the brand[21].

Despite some rhetoric, patents are not stopping biosimilar and generic medicines from reaching the market. The IP system is working to enable innovation, foster competition and bring lower-cost alternatives to patients. Policymakers need to address the root cause of affordability and access issues facing patients: health care middlemen, such as PBMs and the insurers they are vertically integrated with, who are increasingly denying coverage of lower-cost generics and biosimilars because they make more money off higher priced medicines.

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[19]Medicines, A. f. A. (2021). New Generics Are Less Available in Medicare Than Commercial Pla ns. Association for Accessible Medicines. https://accessiblemeds.org/sites/default/files/2021-07/AAM-New-Generics-Are-Less-Available-in-Medicare-2021.pdf

[20]AmerisourceBergen Xcenda. Skyrocketing Growth in PBM Formulary Exclusions. May 2022. *https://www.xcenda.com/-/media/assets/xcenda/english/content-assets/white-papers-issue-briefs-studies-* pdf/xcenda_pbm_exclusion_may_2022.pdf

[21]IQVIA. Adalimumab Biosimilar Tracking: Q1 Readout. April 2, 2024. https://biosimilarscouncil.org/wp- content/uploads/2024/04/04022024_IQVIA-Humira-Tracking-Executive-Summary.pdf

# NCOIL Staff Concludes Ninth Annual "No-Shave" November

The Team at NCOIL's National Headquarters participated in their ninth annual "No-Shave November". NCOIL Staff put down their razors for 30 Days to help raise awareness for the fight against cancer. This year, NCOIL Support Services made contributions to the Melanoma Research Foundation (MRF) and the Prostate Cancer Foundation (PCF).

More information on No-Shave November can be found at: https://no-shave.org/

More information on the Melanoma Research Foundation can be found here: https:// melanoma.org/

More information on the Prostate Cancer Foundation can be found here: https:// www.pcf.org/

## NCOIL Annual Meeting in Pictures:

Rep. Deborah Ferguson, DDS (AR) honors Cmsr. Considine

John Ashford, Chairman & CEO of the Hawthorn Group Delivers the Keynote Address

# NCOIL One on One

Haven't had a chance to watch the interviews with all our NCOIL One on One participants? Visit the link here to see past NCOIL One on One Interviews. Thank you to all who have participated so far:

- IN Rep. Matt Lehman
- NY Asw. Pam Hunter
- OH Sen. Bob Hackett
- AR Rep. Deborah Ferguson
- ND Sen. Jerry Klein
- LA Rep. Edmond Jordan
- CA Asm. Ken Cooley
- TX Rep. Tom Oliverson
- NV Asw. Maggie Carlton
- MN Sen. Paul Utke
- MI Rep. Brenda Carter
- WV Del. Steve Westfall
- SC Rep. Carl Anderson
- NC Sen. Vickie Sawyer
- IN Sen. Travis Holdman
- OK Rep. Forrest Bennett
- CT Rep. Tammy Nuccio
- MS Sen. Walter Michel
- KY Rep. Rachel Roberts
- UT Rep. Jim Dunnigan
- NJ Sen. Nellie Pou
- ND Sen. Shawn Vedaa
- RI Sen. Roger Picard
- WI Sen. Mary Felzkowski
- NY Sen. Neil Breslin
- LA Ins. Cmsr. Jim Donelon
- KY Rep. Sarge Pollock
- OK Rep. Ellyn Hefner
- Charise Richard, PhRMA
- MI Sen. Lana Theis
- OH Rep. Brian Lampton
- CA Asm. Tim Grayson
- Kevin McKechnie, ABA
- MA Rep. David LeBoeuf
- Wes Bissett, Big I

**Reminder that Contributing States are eligible for two legislator stipends per National Meeting to help underwrite the cost of participating.**

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**Please reach out to Pat Gilbert at pgilbert@ncoil.org with any questions**

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